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THE PUBLIC DOMAIN AND DEMOCRACY

▲ Study of Social, Economic and Political Problems in the
United States in relation to Western Development

BY

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ROBERT TUDOR HILL

PREFACE

WHEN Professor Frederick J. Turner read his paper on "The Significance of the Frontier in American History" before the American Historical Association in 1893, he not only opened to view a field of study which had previously been given but little attention, but he also set a high mark for modern historical research and investigation. From the modern sociological point of view it was unusually significant. He said: "The United States is like a huge page in the history of society. Line by line as we read this continental page from west to east we find the record of social evolution. . . . This page is familiar to the student of census statistics, but how little of it has been used by our historians." ¹

Within recent years, however, students of American history and social processes have been giving increasing attention to the westward extension of the old sea-board population; to the occupation of the nation's great Public Domain; to the effects of immigration; to the processes involved in the establishment of new communities; to the modifications of social, economic and political institutions; and to the relation of these matters to national polity and national welfare. It is hoped that this study will be a contribution—if only a very small one—to the growing fund of information on these subjects.

The West presents to us an excellent field for both inductive and deductive studies of social phenomena on a

¹ *American Historical Association Report*, 1893, p. 207.

broad scale, for, as Loria observed: " 'America has the key to the historical enigma which Europe has sought for centuries in vain, and the land which has no history reveals luminously the course of universal history.' " ¹ It is common knowledge that its settlement and development have had tremendous influences in national life. The history of the whole country is bound up in the rapid extension of her borders and the remarkable expansion of her population. But in large movements one may lose sight of others developing at the same time. To reverse a well-known saying: "We see so much of the forest that we fail to see the trees." Social developments and social movements have been taking place the significance of which, because of other great national affairs more evident and appreciable, is not yet fully perceived.

The importance of population movements in the United States and the occupation of the Public Domain rests in the fact that they have created a condition of successive change; of social instability; of social, economic and political restlessness; and have carried with them peculiarly vital developments in various phases of American life. No population removal of history, perhaps, has been accompanied by any more marked social phenomena than that beginning in America at the close of the Revolutionary War and continuing to the present. No movement within the range of modern times has been fraught with greater import than has this one which transplanted a portion of the roots of a vigorous people on a restricted sea-board to the wilds of a frontier which shortly teemed with life and civilization.

Of the utmost importance and significance have been developments in our social, economic and political life directly

¹ Quoted by Turner, *op. cit.*, p. 207.

traceable to or largely depending on these population movements. The most vital importance may be attached to the distribution of the Public Domain, its occupation and economic development in relation to democracy. Fundamentally, the great westward movement of population was a direct result of the opening of vast western territories. But their opening and occupation have come at a most critical moment in the nation's industrial, social and political development and in the general development and realization of political and ethical theories of democracy, liberty, freedom and equality of which the American and French Revolutions were expressive. The fundamental importance of economic pressure and stimulus in social evolution and social phenomena and their coincidence with these population movements, together with all their accompanying phenomena; and rapid economic changes in modern methods of production and distribution of wealth, involve matters of the deepest concern in social welfare.

Briefly then, this is offered as a study of population movements of the country, and the opening, occupation and exploitation of the Public Domain in relation to the perpetuation and development of the social, economic and political democratic ideal in America; to the promotion of ideals of personal liberty and freedom; and to the problems which the conflict of these ideals produce. Two processes, apparently, have been at work: one making for the perpetuation and strengthening of the democratic ideal; the other strongly tending to cut under it and in many cases vitiating its effects. We have had and do have before us the working of the two forces making for and against democratic social solidarity which Professor Giddings points out: "Since the tendencies toward both cohesion and dispersion are persistent, the social system simultaneously exhibits phenomena of combination and of competition, of communism

and of individualism. Neither order of phenomena can ever exclude the other, but at any given time one or the other order may be ascendant and there may be a rhythm of alternating ascendancy of combination or competition, communism or individualism."¹ The pages that follow will indicate in part, at least, how strong the ascendancy of competition and individualism has been in America and what problems this produces in American democracy.

The study is offered as a partial analysis of the actual operation of democracy in relation to the growth of the individualistic ideal, and as a presentation of certain developments which have occurred, due, in large part, to natural conditions during the past century in union with certain apparently fundamental traits—at least up to date—in human nature. The end is not yet. Society may look for further changes as it has also experienced them in the past. The future must solve many most perplexing problems and among them the puzzling ones of individual rights and social welfare. One can hardly refrain, however, from expressing the regret that formal democracy in America has had such small opportunity to secure a proper balance before it has been brought face to face with such problems as those which the West and the opening-up of a vast Public Domain have produced.

For inspiration and encouragement in the preparation of this essay the writer wishes to acknowledge his deep obligations to Professor Franklin H. Giddings and to friends whose interest has added zest to the task.

ROBERT TUDOR HILL.

COLUMBIA UNIVERSITY, APRIL, 1, 1910.

¹ *Principles of Sociology*, pp. 398-9.

ERRATA

Page 7, line 25. For "produce" read "produces."

Page 64, line 7. For "356,000" read "350,600;" line 8. For "157" read "152;" line 9. For "67" read "62;" line 10. For "510" read "500;" line 11. For "1820 to 1830" read "1810 to 1820."

Page 65, line 10. After "exploitation" insert "of natural resources."

Page 105, line 18. For "sluffing-off" read "sloughing-off." For "1848" in note, read "1898." Correct also on Page 245.

Page 182, line 3. Before "unlawful" insert "alleged."

Page 216, line 3 from bottom. Insert "social" to read "social control."

Page 219, note to read "The Man *versus* the State."

Page 236, Sec. 4, line 15. "personality" does not refer to legal status.

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CHAPTER I

THE WESTWARD MOVEMENT

WHEN the first government census of the United States was taken in 1790 it was estimated that but five per cent of the population lived west of the mountain range which for so long was the western horizon to the seaboard states.¹ Until the Revolution the western country was almost as little known as the center of China, and the constantly recurring Indian wars did not make the country any more attractive. In 1800 Ohio and Indiana had but 51,000 people and the whole West from the Lakes to the Gulf but 386,000 as compared to the total population of 5,308,000 of the whole country.² This western territory was destined to a remarkable growth, however. In 1820, when the national population numbered 9,638,000, the same western territory had an enumerated population of 2,217,000. In 1840 it was found that while the national figures had about doubled to 17,069,000 the West had almost trebled its population to 6,376,000. One needs but to consult any chart showing the constant removal of the center of population westward decade by decade to appreciate the remarkable scale on which the western territories have been populated. The growth of western population is well indicated by this census abstract.

¹ U. S. Census, 1880, vol. on *Population*, Introduction, p. xii.

² *Ibid.*, 1900, vol. i, part i, p. xxiii.

INCREASE OF POPULATION IN THE UNITED STATES¹
GEOGRAPHICAL DISTRIBUTION BY STATE DIVISIONS

Decades	U. S.	North Atlantic	South Atlantic	North Central	South Central	Western
1790....	3,929,214	1,968,040	1,851,806	109,368	
1800....	5,308,483	2,635,576	2,286,494	51,006	335,407	
1810....	7,239,881	3,486,675	2,674,891	293,169	785,146	
1820....	9,638,453	4,359,916	3,061,063	859,305	1,358,169	
1830....	12,866,020	5,542,381	3,645,752	1,610,473	2,062,096	
1840....	17,069,453	6,761,082	3,925,299	3,351,542	3,025,430	
1850....	23,191,876	8,626,851	4,679,090	5,403,595	4,303,522	178,818
1860....	31,443,321	10,594,268	5,364,703	9,096,716	5,768,658	618,976
1870....	38,558,371	12,298,730	5,853,610	12,981,111	6,434,410	990,510
1880....	50,155,783	14,507,407	7,597,197	17,364,111	8,919,371	1,767,697
1890....	62,622,250	17,401,545	8,857,920	22,362,279	10,972,893	3,027,613
1900....	76,303,387	21,046,695	10,443,480	26,333,004	14,080,047	4,091,349

PERCENT OF POPULATION INCREASE BY DECADES²

Decade	U. S.	No. At'l.	So. At'l.	No. Cen'l.	So. Cen'l.	Western.
1790-1800	35.1	33.9	23.5		206.7	
1800-1810	36.4	32.3	17.0	474.8	134.1	
1810-1820	33.1	25.0	14.4	193.1	73.0	
1820-1830	33.5	27.1	19.1	87.4	51.8	
1830-1840	32.7	22.0	7.7	108.1	46.7	
1840-1850	35.9	27.6	19.2	61.2	42.2	
1850-1860	35.6	22.8	14.7	68.3	34.0	246.1
1860-1870	22.6	16.1	9.1	42.7	11.5	60.0
1870-1880	30.1	18.0	29.8	33.8	38.6	78.5
1880-1890	24.9	19.9	16.6	28.8	23.0	71.3
1890-1900	20.7	20.9	17.9	17.6	24.6	33.1

The start having been made, population soon began, at the close of the Revolution, to flow in a strong current to the West. Now and then there were eddies and stretches of back-water in the stream but it has been mainly with a mighty sweep that population has thrust itself to the frontier

¹ U. S. Census, 1900, vol. i, part i, pp. xxii-xxiii.

² *Ibid.*, pp. xxiv-xxv.

and then into the territory beyond. American history can largely be written in terms of this expansion movement. Aside from foreign immigration, this western movement came from the seaboard and from settled regions directly to the rear of the real frontier. Each successive generation has been irresistibly drawn to the new western lands. The movement has always been dominantly latitudinal. Population in general has taken the straight course from East to West to reach western lands opening to settlement and to profit by the many economic opportunities which the new country offered. Miss Semple indicates admirably the factors determining the direction of the movement.¹ The population advance has been generally along lines of least resistance—mainly along drainage basins and river courses—striking out overland when it was found advantageous to do so. Until new forces came in—steam power in its various forms—and new means and directions of transportation were developed, men moved along lines generally determined by the topography of the country.

In order to lay a foundation or present a background for this study of land distribution, occupation and settlement in their relation to problems of democracy a brief survey of the settlement of the West is desirable.

The early westward movements, as soon as men began to push over the Alleghenies, like the settlements themselves, were sporadic and scattering. The first men to enter the new country, as during the whole pioneer period, were hardy and adventurous, roving in disposition, willing to endure hardships and courting them and the dangers of pioneer life. These men pushed into the Indian Country. Later, when others came to settle and build homes and make clearings, the Indians made western settlement anything

¹ *American History and Its Geographic Conditions*, 1903.

but attractive except for the most hardy and fearless men and women. During the earliest pioneer periods it was a constant struggle against these opponents which, fortified by nature itself, made settlement no easy task. Yet it was accomplished in a marvellously short period with a premium placed on vigor, hardihood, physical strength, individual initiative and radiant optimism.

Population in 1790 in New York State did not extend much beyond a line continuing north from the Hudson River.¹ At the junction of the Mohawk Valley, however, it reached out in a long finger westward to about the center of the state. Continuing into Pennsylvania population had pushed a trifle beyond the Atlantic plain and was beginning to occupy the regions transversed by the many parallel ridges of the Appalachians. The general limit of settlement was the eastern Appalachian ridge but even prior to the Revolution some points as far West as the junction of the Allegheny and Monongahela rivers were established as military posts and had attracted small settlements. In Virginia they extended a trifle beyond the Blue Ridge and into what is now West Virginia but these settlements were very sparse. A tongue of population also projected to the southwestward in the direction of the Tennessee River. The Appalachians abruptly limited population in North Carolina but it extended southwestward in South Carolina. Beyond this line north and south there were a few incipient settlements in the Ohio basin and in the vicinity of the Great Lakes but they were far removed from the real line of population. Later, however, they became the centers, in large part, from which settlement of the country spread. Kentucky in 1790 had 61,000 people scattered in small settlements this way, and Tennessee, 32,000.

¹ U. S. Census, 1880, vol. i, *Population*, Introduction, p. xii, *et seq.*

This is a general statement of the extent of population prior to the time when western advance began to take more definite shape. The occupation of the whole United States territory, therefore, has practically required but a century. It is not strange that this is a phenomenon declared unprecedented in history. As soon as the trans-Appalachian country was opened a vast tide swept into it to appropriate the free gifts of nature. The close of the French and Indian wars was the signal for this advance but it did not begin to assume such large proportions until after the Revolution and indeed not until the War of 1812 was concluded.

From 1790 to 1800 there was a continual advance along the whole frontier from north to south, the former fringes of population being webbed in as it were with the increasing pressure behind.¹ It was during this decade that the directions of the population movement, which later became noticeable, began to appear. The northern path was through central New York by the Mohawk Valley. The second crossed southern Pennsylvania, western Maryland and northern Virginia parallel to and along the course of the upper Potomac. The third passed through Virginia southwestward down the great Appalachian valley, crossing to Kentucky and Tennessee. Around the southern end of the Appalachians was the fourth path to the West through Georgia and Alabama. To trace the general direction of population advance into the Mississippi Valley little more than a study of these routes is required.

By 1800 the frontier line, largely by reason of land hunger and the quest for gain, had become greatly straightened. The population movement by this time began to take on much the appearance of a wave spreading westward from

¹ For a graphic description of the westward movement from this time on see U. S. Census, 1880, vol. i, *Population*.

POPULATION OF SELECTED MIDDLE WESTERN STATES BY DECADES.—IN THOUSANDS¹

States	1790	1800	1810	1820	1830	1840	1850	1860	1870	1880	1890	1900
Kentucky	74	221	407	564	688	780	982	1,156	1,321	1,649	1,859	2,147
Tennessee	36	106	262	423	682	829	1,003	1,110	1,259	1,542	1,768	2,021
Ohio	45	231	581	938	1,519	1,980	2,340	2,665	3,198	3,672	4,158
Indiana	6	25	147	343	686	988	1,350	1,681	1,978	2,192	2,516
Illinois.....	12	55	157	476	837	1,712	2,540	3,078	3,826	4,822
Michigan	5	9	32	212	398	749	1,184	1,637	2,094	2,421
Wisconsin	31	305	776	1,055	1,315	1,687	2,069
Minnesota	6	172	440	781	1,302	1,751
Iowa	43	192	675	1,194	1,625	1,912	2,232
Nebraska	29	123	452	1,059	1,066
Kansas	107	364	996	1,427	1,470
Missouri	21	67	140	384	682	1,182	1,721	2,168	2,679	3,107
Mississippi	9	40	75	137	376	607	791	828	1,132	1,290	1,551

¹ U. S. Census, 1900, vol. 1, part 1, pp. xxii-xxv. Figures given are for thousands most closely approximated.

north and south instead of being more sectional as it had been somewhat previously. The Census of 1800 gave Ohio a population of 46,000, and Indiana 6,000.¹ These are the figures for their first enumeration. By the next census they had gained 408 and 334 per cent respectively, while Mississippi, obtaining her population from more southern sources, exclusive of blacks, gained 356 per cent. The tables tell the story in figures.

POPULATION INCREASES OF SELECTED MIDDLE WESTERN STATES²

PERCENTAGES OF GAIN AT SEVERAL DECADES

States	1800	1810	1820	1830	1840	1850	1860	1870	1880	1890	1900
Kentucky.	199	84	38	21	13	26	17	14	24	12	15
Tennessee.	195	147	61	61	21	20	10	13	22	14	14
Ohio.		408	152	61	62	30	18	13	20	14	13
Indiana.		334	500	133	99	44	36	24	17	10	14
Illinois.			349	185	202	78	101	48	21	24	26
Michigan.			86	255	570	87	88	58	38	27	15
Wisconsin.						886	154	35	24	28	22
Minnesota.							2730	155	77	66	33
Iowa.						345	251	76	36	17	16
Nebraska.								326	267	134	0
Kansas.								239	173	43	2
Missouri.			219	110	173	77	73	45	26	23	16
Mississippi.		356	87	81	175	61	30	4	36	14	20

These tables indicate two chief things: first, the periods at which the states in the Middle West became settled; and second, the amount of the growth sustained from decade to decade. The percentages are computed from census returns for the respective ten-year periods. The tables in conjunction with tables on pages 16 and 50, showing the occupa-

¹ Round numbers.

² U. S. Census, 1900, vol. i, part i, pp. xxii-xxv.

tion of the Public Domain and the settlement of western lands, give a vivid statistical picture of the tremendously rapid development of the Mississippi Valley. For more complete figures one may refer directly to census reports, particularly to the summaries in the published census reports of 1880 and of 1900. Pacific Coast states show similar remarkable figures of growth. California had a population of 92,597 in 1850; by 1860 it had increased to 379,994, or 310 per cent. By the end of the next ten years the population had increased to 560,247, or 47 per cent. Likewise, Oregon's population increased from 13,294 in 1850 to 52,465 in 1860, or 294 per cent, and almost doubled itself during the next two decades, respectively. Washington had a similar experience.

Thus began a movement of great national import, a movement which assumed tremendous proportions particularly between the War of 1812 and the Civil War. The French scholar, De Tocqueville, at about this time was moved to exclaim: "No event can be compared with this continuous removal of the human race, except, perhaps, those irruptions which preceded the fall of the Roman Empire."¹ In 1810 people of the seaboard awoke to the realization that the center of population was moving away from them and was already several miles inland, and instead of a frontier at the crest of the Alleghenies it had passed on even beyond the Ohio and up the Mississippi.

During this decade great events occurred in American expansion history. The vast Louisiana Territory was transferred to the United States; large parts of Alabama and Mississippi were ceded by Georgia to the federal government; Ohio was organized as a state; Michigan Territory

¹ *Democracy in America*, edition 1863, vol. i, p. 374.

was erected, comprising what is now the lower peninsula of that state; Indiana Territory was set apart; and Illinois Territory, including Wisconsin and a part of Minnesota, came into being. And the population movement was keeping up in a fair way with this increase of territory.

The war was chiefly responsible for the easing-up of the population movement during the decade, 1810 to 1820, and yet by the end of this period the frontier had been pushed to central portions of Indiana, into Illinois and at some points across the Mississippi River. In addition, the fringes were being webbed in behind. Population thickened to the rear of the frontier. It was during this period, too, that Mississippi, Alabama, Indiana and Illinois became states, as also Louisiana and Maine. Arkansas came under territorial organization; so also, did Missouri. Michigan Territory was extended to include the present states of Michigan and Wisconsin. Briefly, population simply followed lines already determined by movements of the preceding two decades.

Such a tide began flowing westward immediately following the signing of peace-papers that western settlement practically dominated the history of the next two decades. So strong was this movement that some sections were almost completely settled. Land speculation grew and flourished. The Palatines and Scotch-Irish in central and western New York were practically submerged in the stream of settlers.¹ Birkbeth tells of five hundred immigrants per week passing westward through Albany in 1817 on one road.² No great changes in the direction of the frontier line took place immediately, however, with the beginning of this movement. The back country began to be

¹ Halsey, *The Old New York Frontier*, p. 337.

² *Letters from Illinois* (London, 1818), p. 11.

filled in. In 1822 a tide of immigrants was pouring into Missouri through Illinois, from Virginia and Kentucky.¹ All roads westward were crowded. From 1820 to 1825 Illinois gained 17,000 population. Fifteen years later the whole state was settled.² Writing at this time, we can hardly realize that Illinois was a "border state" in 1830. Iowa was reached during the following ten years.

The tremendous rush of population into new western districts and the scramble for land was reflected during the period following the War of 1812 and up to the crisis of 1837 during which time land speculation and a craze for internal improvements gripped the country. The internal improvement propaganda was largely induced by the exhaustion of territories contiguous to rivers and water courses, the filling-in of interior portions and the desire to facilitate communication.³ Financial writers declare the people were mad with the fever of land speculation. The pouring of population into the unoccupied territory carried men off their feet with the prospects of sudden wealth through the appreciation of land values and other forms of large economic gain.

The frontier by 1840 extended in a fairly straight line from the southern end of Lake Huron, across Lake Michigan to Prairie du Chien, from whence it zig-zagged southwesterly to St. Joseph, dropping thence directly to the Gulf. By this time Michigan and Arkansas had become states and Wisconsin and Iowa territories, the latter embracing a part of Minnesota. The center of population was shifted to about the western boundary of Pennsylvania, in northern Virginia. Even before this the West had developed a "so-

¹ Cf. Ford, *A History of Illinois*, p. 51.

² *Ibid.*, p. 229.

³ Coman, *The Industrial History of the United States*, p. 202.

cial consciousness" and a recognition of "local interests." It was about this time, however, that a recoil of population became noticeable. Men who had rushed westward to fall victims to "land sharks" and land speculation began to return to the east. Thus began an important movement which has persisted during the various following frontier expansion movements.

From 1840 to 1850 the westward movement became even more intensified. It now began to dominate the whole Mississippi Valley and had pushed to the Missouri River across Iowa. Iowa was admitted to the union as a state; also Wisconsin. Minnesota was erected as a separate territory and out of the great newly annexed western territories came Texas as a state and New Mexico and Oregon as territories. The marvelous extent of democratic land occupation may be indicated by the increase of Wisconsin population from 31,000 in 1840 to 305,000 in 1850, with 57,608 different families occupying 56,316 permanent dwellings.¹ Foreign immigration added much to this. Besides the thickening of population to the rear of the real frontier during these years, by 1850 the direction in which population was trending became more fully apparent. It remained for the next ten years to carry the center of population over the Ohio and push the western edge of settlement into Minnesota, Nebraska and Kansas. In addition to the extension of the frontier by 1850 the nucleus of much of the later Pacific coast population had come into being—a concentration of 60,000 miners and adventurers in California—by the famous rush of the goldseekers.

While the period from 1850 to 1860 may be marked by important territorial changes it is the continued steady march

¹ Ferris, *The States and Territories of the Great West* (1856), pp. 219-220.

of population further westward which also dominates these years. By this time the country across the Missouri River was fairly well settled as far north as southern Minnesota which was admitted as a state. Nebraska and Kansas were set aside as territories by the end of the decade. California and Oregon also were admitted as states and the set of conditions which finally caused two frontiers, one a western and the other an eastern, to meet at the crest of the Rockies, came into being. Washington and Utah were also erected as territories, and population began its sweep across the plains, a movement which soon called for more adequate transportation and communication facilities resulting in the era of railroad building.

In spite of the war an extension of frontier took place during the next ten years marking the rapid occupation of land, but inspection of population maps shows an intensifying of population to the rear of the frontier.¹ However, during this time Nebraska, Kansas and Nevada were admitted as states, and Arizona, Colorado, Dakota, Idaho, Montana and Wyoming were organized as territories. The war had a most material effect on the population movement by diverting many men into military service, who, upon release from service, flocked to the West in tremendous numbers. It was during this period that the mountain states, by reason of mineral discoveries and the rush of fortune hunters came into prominence.

The interesting history of the next two decades was that of a steady occupation of land in all directions, a great increase of population on the Pacific Coast, and the establishment of rapidly spreading population centers throughout the mountain states. The building of railroads was a potent factor in this advance. By 1880 Colorado was added

¹ Cf. U. S. Census, 1880, vol. i, *Population*.

as another state, Minnesota and eastern Dakota were well settled and population in Kansas and Nebraska pressed to the western dry belt at which it temporarily stopped. Finally, by 1880, the center of the country's population was advanced to Cincinnati and soon passed into Indiana.

Thus by 1890 comparatively only a fringe of territory at the eastern base of the mountains was unoccupied, though lands toward the north, districts held for Indians and areas in the mountain states offered abundant openings for future occupation. Though homesteading may yet be done, the vast area of the Public Domain, with the exception of large dry-land areas and large sections in the western mountain and Pacific states, by 1890 had practically been taken up.

Character of Movement

Unlike many other great migrations in world history this movement of population just outlined was not engendered by political discontent, religious oppression or social pressure. It was an economic movement induced by a desire to improve advantageous opportunities rather than one prompted by a desire to escape unfavorable conditions of living. The desire for hunting and trading first led the way. Next came men seeking new lands for cultivation and new homes. This in turn opened up vast opportunities for business enterprise in commerce and transportation. Then came the further occupation of lands for agricultural and grazing purposes along with a rush of men induced by opportunities for land speculation. In time also came those who desired to exploit mines, forests and other natural resources aside from pure tilling of the soil. This added to the occupation of new lands for all purposes and induced further population growth by the search for attractive business openings. Thus it may be seen that the economic ad-

vantages offered by the West have been the basis of its occupation.

In this description of western advance decade by decade may be observed the different frontiers which Professor Turner describes: "Western occupation advanced in a series of waves: the Indian was sought by the fur-trader; the fur-trader was followed by the frontiersman, whose cattle exploited the natural grasses and the acorns of the forest; next came the wave of primitive agriculture, followed by the more intensive farming and the city life. All the stages of social development went on under the eye of the traveler as he passed from the frontier toward the East."¹ And he might have added—and so did the characteristics of men and the stimuli to which they responded. Occupations on these successive frontiers largely determined the character of the men adapted to these conditions of life. Each frontier had its moulding influence on those who became a part of it. It is a question as to which is of greatest import in the early stages—the triumph of man over nature, or the impress of nature on man. A reader of Davenport's *Primitive Traits in Religious Revivals* will be impressed by the influence over man he attributes to the frontier conditions of life, exhibited in the revival movements of early Kentucky and Tennessee. Referring to this response to stimulus, Turner says: "At the frontier, the environment is too strong for the man."² He adapts himself to it. In a broader aspect the affect of the West may be seen in politics and economic life, particularly revealing itself in speculative crazes, and in that spirit of optimism which has continually dominated it.

¹ "Colonization of the West, 1820-1830," *American Historical Review*, vol. i, no. 2, p. 315.

² "Significance of the Frontier in American History," *op. cit.*, p. 201.

The pulsatory character of the westward movement may be easily perceived. The successive waves of advance varied greatly in degree of intensity. This may be seen in the unequal advances of the center of population.¹ A consultation of the tables above showing the percentages of population growth in the western states gives an additional indication of this pulsatory character in the movement. This variation in intensity seems to have been influenced from two directions: from the West itself as conditions and attractions varied, as for instance, during the period of rapid internal improvements and railroad construction and the rush to California and mineral districts; and by circumstances not directly related to the West itself, as for instance, the wars of 1812 and 1861-65.

The beginning of the water navigation and railroad building era marks a point of difference in the movement of population westward. Before its advent men struck out overland in case of necessity but generally followed the river valleys and later developed means of communication. After the latter became common they served as feeders to the West, as for instance the Union Pacific Railroad, which pushed out beyond the edge of settlement and drew population into new lines. These new avenues of transportation naturally had the effect of increasing and scattering population with extreme rapidity.

The Western Population

These different ways of approach to the West had their effect on the character or rather greatly determined the type of the men who went into the new country. Before avenues of communication had been opened up the conditions of frontier life and the men drawn into the West, es-

¹ See any map showing succeeding centers of population.

pecially at the earliest stages, were much more rugged, raw and uncompromising than later. The type which Roosevelt extols,¹ the hardy pioneer of Kentucky and Tennessee, later gave place to a vigorous but somewhat modified type, who went West with all his family and chattels on to the plains to create homes out of the Public Domain. Yet at all periods the rugged and vigorous characteristics of the pioneer and settler have become embodied in social life, political and religious institutions and business interests and have left upon them indelible marks. As in former periods of human social development, the frontier has left and is leaving its imprint. The type of men and women drawn into Kentucky and Tennessee and Ohio at the earliest periods should be appreciated for one to understand fully the religious, political, social and economic phenomena of the years immediately following and even further as they and their children swelled the western population.

The earliest trans-Allegheny pioneers were a restless, fearless, daring lot on whom the conditions of pioneer life had made an indelible imprint. They had always been associated with the frontier. They had a strong sense of individual rights and personal freedom and leaned to the assertion of self. Our impressions of these men are very similar to those Tacitus gives us of the old Germans. Though they were later practically swamped in the flood which swept over the mountains they left their impress for democracy. The men who later took up the pioneer's trail were different only in degree or in the different way in which they reacted to the stimulus of a new country. The men who have settled the West have been marked for their vigor, strength and individualism. Comparatively speaking they have been a selected lot. Not alone was the pure

¹ Cf. *The Winning of the West*, 3 vols.

frontiersman of this type, however. So were those which followed him. Those families which, following the Civil War, marched on to the plains were not essentially different, except in point of degree, if even in this, from those who went into the Ohio Western Reserve, or the Fire Lands, or into Michigan Territory, or into the Kentucky "blue grass region." The best representatives of those earlier settlers, physically and temperamentally, in whom the individualistic trait is prominent, are they who to-day may be found on the ranges and among the new districts of newer western states.

Early periods demanded a more rugged physical type of man than later. When, instead of a somewhat individual movement the western advance became chiefly one of large groups and often communities, and altogether a mass movement, smaller premium was placed on the rougher characteristics yet easily enough to preserve characteristic ideals of equality, democracy, individualism, freedom from restraint and personal liberty. Broadly speaking, the economic and social conditions obtaining in the West have been such as to perpetuate vigorously these characteristics. Besides this, the individualistic pioneer spirit has not been limited to the men who have actually seen the rugged frontier but may be seen in those who have nevertheless been stimulated to take advantage of conditions and incentives in the West for purely individualistic and non-social purposes.

Closely associated with this has been that of a marked restlessness. Successive generations have refused to continue at home but have removed readily to newer lands and districts of which the rapid growth of new communities bears witness. The various periods of speculative fever are further proof, as also various kinds of legislation and various political movements. The West has been noted for

the readiness with which new social movements and radical political propaganda have taken root and spread. The desire for innovation and a readiness to adaptation seems to have gone hand in hand with the population movement itself.

The spirit of optimism which has had full freedom of expression, also, in the West has had the closest connection with its settlement. The over-occupation of land, the extension of the frontier beyond the real body of population, periods of internal improvement and land speculation, and the strength of the movement itself at its various periods are bona-fide evidence of this element.

An abiding influence in this movement westward has also been that of the youthfulness of those participating in it. It has been, for the most part, the younger generation which has removed westward from the older districts both in the native and foreign population. This was early noticeable in the tide flowing outward from New England leaving the older people behind. This has had no little influence in the political and economic life of the West. According to census returns not only is the proportion of adults, 20 to 30 years of age, higher in the newer states than in the old but also the proportion of children under ten years of age is greater, coinciding with the greater fecundity of this age. It is of importance that on such an essentially non-traditional population, rested the responsibility of perpetuating and developing those ideals of equality, democracy and individual liberty handed down by their fathers.

The way our foreign-born population and the second generation especially, has identified itself with a militant American democracy has been an appreciable element in western development. The mingling of native and foreigner in the West and the competition between them have undoubtedly been most powerful influences in popularizing the democratic ideal. Naturally, we would expect these

foreign immigrants, breaking away from traditional restraint and becoming established under new conditions of life—economic, social, religious and political—to show very definite tendencies to embrace the new ideals and ideas surrounding them and indeed to go even further with sufficient opportunity.

The following table compiled from census statistics indicates the proportion of persons of foreign extraction to the total population in seven western states up to the eighties.

APPROXIMATE PROPORTIONS OF FOREIGN BORN POPULATION IN WESTERN STATES

	1850	1860	1880
	per cent	per cent	per cent
Michigan.	14	18	24
Indiana.	5	9	7
Illinois.	13	19	19
Wisconsin.	35	36	30
Iowa.	11	16	16
Missouri.	16	14	9
Ohio.	11	14	12

In Minnesota, Nebraska and Dakota this proportion of foreign born was as much or more noticeable by 1880. As most of this population came from northern Europe it mingled fairly easily with the native stock and was a hardy, vigorous element added to the native population.

This description of the westward movement has been given in some detail to provide a setting or background for the study of certain social developments in relation to American political ideals. Land has been the fundamental cause of the movement and the occupation of the Public Domain has been surrounded with vital developments of which occupation, ownership and exploitation are most intimately concerned. The evolution of social institutions in the United

States, as many writers assert, cannot be fully understood or appreciated except in the light of the peculiar conditions which have obtained during the past century. No more important single fact is there than this great movement of population, the social changes which have taken place in connection with it, and its obvious effects, in American history. It is fundamental.

In addition, also, to land stimulus in this movement in relation to democracy and individualism, the extent and character of the movement itself is of greatest importance. At least individualism as we shall observe it, would have had much less opportunity to show itself had the population movement extended more slowly, over a much longer period and it had been more steady and in somewhat better proportion to the opening of the Public Domain. Of double importance, also, has been the fact that this occupation of the Public Domain by a vigorous population has taken place at a period of great industrial evolution, during which time even settled countries have had difficulty in developing social institutions fast enough to keep pace with tremendous changes in methods of producing and distributing wealth. In America the conditions have been complex as are also the products of those conditions. Our public land policies and certain public events cannot be fully appreciated except in connection with them. At point after point the occupation of the West is the hub about which have revolved some of the greatest problems of our national life.

CHAPTER II

PUBLIC LAND POLICIES AND THE PUBLIC DOMAIN ¹

It was with the cession of western lands to the federal government that the care and disposal of a Public Domain became a vital matter in American history. This called into being certain land policies, which, from time to time, have necessarily been modified in one way and another to meet varying conditions and changing sentiment. These land policies naturally, have had a most intimate relation to the westward movement of population. In fact they cannot be understood or appreciated apart from the movement itself. One is wrapped up in and is a part of the other, and each is an element in western development. At every point land legislation and public domain policies have taken shape from the influences of western development. The origin of our land policies can be studied in early colonial land policy and successive systems represent adaptation of statutes to the customs and demands of successive frontiers. However, the Public Domain has been generally "regarded as belonging to the people, and it has been the policy of Congress to place them in possession of the lands as fully as possible. The doctrine that the prosperity of

¹ The outline of public land policies in the following pages is not complete in the sense that it discusses all phases of land legislation and administration. The aim, rather, is to indicate briefly the general trend of our national land policies in-so-far as they relate to the occupation of the Public Domain, to general social welfare and to certain vital political problems which the writer will try to point out.

the people must rest largely on the possession and cultivation of our extensive territory has been kept well in mind during the last seventy-five years, and the result has been that land has been distributed liberally, even though without much regard to the ultimate possessor." ¹

No portion of national legislative and administrative history has been a more important material influence, probably, in respect to American democracy. These policies have more or less expressed the political philosophy of the time. The history of their administration in connection with the great movement of population itself, indicates to some degree, at least, how the application of democratic ideals under conditions which have obtained in a new country, and under modern conditions of industrial progress, has been secured, where a political philosophy seems to have outstripped the establishment of institutions aimed to give it concrete and permanent expression. While it is not our object to study primarily the land policies of the country, a general statement concerning them in relation to the westward movement of population is desirable.

Early thought in the matter of public lands was radically different at first from what it later came to be.² Legislators, public men and financiers did not look upon the lands as territory for settlement but as an asset to be cashed as quickly as possible, the proceeds applied to the government current-expense budget and used to extinguish the national debt. Congress in 1785 issued a proclamation forbidding settlement on the Public Domain. The act of 1804 was of like import and the law of 1807 gave the power of removing settlers from public lands pending sale, to the President.

¹ McVey, "The Populist Movement," *Economic Studies, American Economic Association*, August, 1896, vol. i, p. 157.

² Donaldson, *Public Domain*, p. 196.

Because of the desire for immediate revenue the ordinance of 1785 made no provision for credit purchase of land.¹ The sudden and rapid extension of the national domain, however, and the changed public sentiment regarding this open territory changed public policies. Land for settlement became the uppermost idea.

The ordinance of May 20, 1785,² first established in detail a system for the disposal of lands, including a system of survey and entry. One of its most significant provisions was the unlimited sale of lands above a required minimum—640 acres. This brought about the purchase of large areas of land. The Ohio Company, a New England concern, purchased 892,900 acres in Ohio, paying for the same in certificates and army land warrants; and John Cleves Symmes, for the Miami Company, bought 272,540 acres along the Miami and Ohio rivers for which he paid \$189,693 in army land warrants. The "Erie Purchase" by Pennsylvania amounted to 202,187 acres. The two first named purchases were the initial attempts to colonize the West.³

The recommendations of Hamilton in 1790⁴ led to changes in policies of land administration embodied in the ordinance of 1796.⁵ A portion of his statement is interesting. He said: "'Purchasers may be contemplated in three classes: moneyed individuals and companies who will buy to sell again; associations of persons who intend to make settlements themselves; single persons or families, now re-

¹ Donaldson, *Public Domain*, p. 196.

² Cf. *Journals of Congress*, 10, p. 167.

³ *Public Domain*, p. 17; cf. also Sato, "Land Question in the United States," *John Hopkins University Studies*, 1886, vol. iv, pp. 137 and 140.

⁴ Quoted in *Public Domain*, p. 168.

⁵ i, *Statutes-at-Large*, 464.

sident in the Western Country, or who may emigrate thither, hereafter. The first two will be frequently blended, and will always want considerable tracts. The last will generally purchase small quantities. Hence a plan for the sale of Western lands, while it may have due regard for the last, should be calculated to obtain all the advantages which may be derived from the first two classes.' ” He then asked for a central and district land offices. Thus we have the beginning of the land-office system, with four district offices established by the act of 1800.¹ The demand for smaller tracts of land by actual settlers was met in the division of territory formerly sold in quarter townships to half-sections. It was not until 1804 and 1820 that the minimum quantity of land open to entry was reduced to quarter and half-quarter sections, respectively, thus fostering small holdings. Not until later was 40 acres made the minimum.²

Western land was first sold for one dollar per acre but with the ordinance of 1796 in force it was offered at two dollars including costs of survey and disposition.³ But from 1786 to 1820 the price fell from two dollars to \$1.25 per acre cash.⁴ Over the whole period from 1785 to 1880 public land prices varied according to the following:

Agricultural lands. From .12½, .25, .50, .75, \$1.00, and \$1.25 to \$2.50 per acre. “ Under the cash and pre-emption acts a vast area containing coal, and millions of acres of timber land, have been sold at the foregoing rates.”

Mineral lands. “ In Michigan, Wisconsin and other States, lands containing copper and lead were formerly offered at public sales at not less than \$5.00 per acre, and if not then disposed

¹ ii, *Statutes-at-Large*, 73.

² Sato, *op. cit.*, p. 143.

³ *Public Domain*, p. 197.

⁴ *Ibid.*, p. 205.

of they were to be held for private sale at that rate. Persons in possession under leases from the War Department, however, were to have preference right of purchase, at the rate of \$2.50 per acre. Under present laws (1884)¹ except in the states of Michigan, Wisconsin, Minnesota, Missouri, and Kansas, lands valuable for minerals contained in veins or lodes, or 'rock in place', including lead, copper, gold, silver, cinnebar, iron etc. are sold at the rate of \$5.00 per acre. Lands containing 'placer' deposits of minerals are sold at the rate of \$2.50 per acre. In the states above excepted all lands are sold as agricultural."

Coal lands, sold at \$20. per acre where situated within fifteen miles of a constructed railroad; otherwise, \$10 per acre.

Desert lands, \$1.25 per acre.

Saline lands, \$1.25 per acre.

Timber and stone lands, \$2.50 per acre.²

Land and valuable deposits and natural resources have thus been extremely cheap and the possibilities of tremendous profits have been comparatively unlimited, particularly in the purchase and later disposition and exploitation of mineral and forest lands. It is not strange that the westward movement attained such proportions and that it became of great importance to national development. Land or immensely valuable sites for various purposes could be secured for a comparatively insignificant sum or for nothing save occupation and tillage or development. The farmer often paid for his farm with his first year's produce and had something to spare for future investment under the credit, cash sale, pre-emption or homestead and commutation system. Large corporations have been able to secure huge areas for practically a song, to hold them for future de-

¹ Date of citation.

² *Public Domain*, p. 208.

velopment and in the case of railroads to be the dictators, largely, of their own future. Dr. Shosuke Sato, to whose work we have already referred, gives this table of expense in a credit purchase of 640 acres.¹ A cash payment of \$331, was all that was required divided as follows:

Register's fee for application	\$3 00
Surveying expenses	6 00
One-twentieth of \$1,280, price of a section at \$2.00 per acre, to be deposited	64 00
One-fourth of \$1,280, including deposit, paid within forty days after purchase	256 00
Other fees	2 00
	<hr/>
	\$331 00

With further comparatively easy payments any industrious farmer could soon possess himself of a farm. Such inducements were not without tremendous effect. The opportunities and incentives for straight purchase or patenting by other than legitimate means were, moreover, tremendous.

This credit system of purchase, established by the Act of 1800,² however, brought with it a vast deal of trouble. It was abolished in 1820 for sufficient reason. The easy means of obtaining land not only induced bona-fide settlement of the country but created an excessive amount of speculation. Land speculators and jobbers bought for a rise in values. Bona-fide settlers were drawn into the mad whirlpool of speculation. Many were disappointed in their expectation that products of the first year would meet payments of the succeeding year; speculators who counted on a rise in real-estate values and a rapid growth of the country were often badly mistaken. As the law provided that non-payment of balances caused a forfeiture of hold-

¹ *Op. cit.*, p. 146.

² ii, *Statutes-at-Large*, 73.

ings, men were reduced to greatest extremities to retain possession. Consequently there was the greatest demand for relief. From 1809 to 1832 inclusive, no less than twenty-three relief acts were granted by the government in Congress.¹ In time it was discovered, however, that permanent relief could only be realized by abolishing the credit system. This was done in 1820 but the increasing number of pre-emption acts really secured to bona-fide settlers all the benefits of the credit system without subjecting them to its dangers. The pre-emption system, however, in turn produced the greatest of abuses and difficulties. In addition to abolishing the credit system the price of land was reduced to \$1.25 per acre which, though it made actual settlement more easy, did not do away with the speculative fever in the early Middle West of which the crisis of 1837 particularly bears witness.

The credit system of land sales was designed to make the acquisition of land easy and the distribution of land fair and equitable. It was intended to aid the bona-fide settler seeking a home and a competency and to put all men on a potential equality. But speculation and over-confidence brought the system of credit down on men's heads and it had to give way to more stringent regulations. These were provided in the succeeding law of 1820 requiring cash purchase. Thereunder the lands were sold to the highest bidder at public sales for not less than the minimum rate of \$1.25 per acre, and at private sale, after the offering at the minimum rate. The amount of land which could be bought was also reduced to 80 acres, thus fostering small holdings.² Seventy-six million acres were sold in twenty

¹ Sato, *op. cit.*, p. 149.

² *Public Domain*, pp. 205-206.

years, half of this during the two years preceding the crisis year of 1837.¹

Pre-emption in land occupation increasingly obtained following the credit system though the first of a series of pre-emption acts was passed in 1801.² Like the credit system, pre-emption was designed to provide for an equitable distribution of opportunity in accordance with the increasing demands of the time.³ Yet around the pre-emption acts the most glaring abuses in the wrongful, illegal, inequitable and undemocratic misappropriation and exploitation of western lands centered. Whereas at first these acts were designed specifically to assist worthy settlers who had found themselves unable to meet their obligations to the government, in time they opened the way to lamentable abuses demanding congressional action. Year after year the General Land Office complained of conditions, yet Congress was slow to act, due, it is said, largely to the storm of protest raised by powerful interests and influential land-speculators and jobbers.

The pre-emption system originated in the assistance rendered to the settlers of the Symmes Purchase in Ohio, when Symmes, failing to meet his obligations in his purchase of land previously referred to, caused certain settlers to find titles to lands purchased, valueless. Arguing that they were settlers and purchasers in good faith, that they were unable to re-purchase the lands; that they felt their titles

¹ Cf. Hart, "The Disposition of Our Public Lands," *Quarterly Journal of Economics*, vol. i, 1886-87, p. 173.

² Sato, *op. cit.*, p. 160.

³ "Pre-emption is a premium in favor of, and condition for, making permanent settlement and a home. It is a preference for actual tilling and residing upon a piece of land." *Public Domain*, p. 314. It is not free-grant but a privilege based on bona-fide occupation of purchasing a tract of land against competitors.

were valid; and that since land values had risen because of improvements they had made they should only be required to pay two-thirds of a dollar per acre for land instead of \$2.00 if such was demanded by the government, they petitioned for relief. Congress gave it to them in the shape of "pre-emption" rights. "This pre-emption or preference right thus first established," says Donaldson, "was a step toward abolishing the sale of unoffered land, and giving a settler the first right or preference as against a person desiring to purchase and hold for investment or speculation."¹ As a "system" pre-emption did not become established until 1841. Until this time pre-emption rights were provided for by temporary acts.

The idea of pre-emption was apparently good. It was a most efficacious means of securing to a bona-fide settler the advantages accruing from actual settlement and effort spent in improving the land. As a measure of relief, as it often was, the idea was to extend help to worthy men but the difficulty was that adventurous and unscrupulous men, insufficiently under control, took advantage of conditions and profited greatly at social expense.

The first general law was the Pre-emption Act of May 29, 1830.² Upon giving satisfaction and proof of settlement or improvements made, every settler or occupant of public lands could "enter" for any number of acres up to a quarter-section, at the established minimum price of \$1.25 per acre.³ This was a temporary measure and was continued from year to year. The act of 1838 extended pre-emption rights for two years more, specifying, however, in detail the kinds of land to which "pre-emption" did not

¹ *Public Domain*, p. 214.

² iv, *Statutes-at-Large*, 420-421.

³ Sato, *op. cit.*, pp. 161-162.

apply.¹ Right of pre-emption was then again extended for another two years in 1840. All of these acts were temporary in nature and contemplated relief to settlers who actually occupied lands when the respective acts were passed. But the acts really encouraged unlawful entry on public lands and measures adopted to stop the bad practices served but to accentuate fraud. Large numbers of men, on one pretext and another, taking advantage of conditions in a new country, not restrained by sufficient control, social or legal, and acting on a strictly individualistic basis, easily turned that assistance which was really designed for legitimate settlers to the aid of their own fraudulent operations. Thus grew up the nefarious conditions reported to Congress at successive sessions from which relief in legislation was often sought in vain, or for which there was often no legislation until after the worst abuses had apparently "driven" Congress to action. It must be said, however, that the inefficiency of the laws themselves and neglect and tardiness of the government and its representatives, legislative and administrative, were in part to blame for the condition of affairs.

Pre-emption did not mean "free-grant." Those taking advantage of it paid established prices for their land. It really amounted to a private sale of land and this is where much of the abuse developed. Ideally, it was most democratic in principle. It developed with the idea of land sale for homes rather than for revenue. It aimed to protect the man who actually entered the land for a home. It was designed to give preference to the "real" settler instead of the "bogus" settler but with sorry results.

The Pre-emption Law of 1841² has been claimed to have

¹ v, *Statutes-at-Large*, 251-252.

² v, *Statutes-at-Large*, 453.

been a great public beneficance. As a matter of fact, under this law the greatest abuses developed which also continued under the Homestead Act of 1862. This law of 1841 was strongly induced by the need of protecting actual settlers which became so apparent from 1830 to 1840, when there was so much speculation in all directions, and when abuses became absolutely intolerable. With the passage of this law came into being the permanent pre-emption right of a person to secure some part of public property.¹

Modifications in the law of 1841 were made from time to time to meet special cases, as for instance, the extension of pre-emption permits to unsurveyed lands in California, Oregon, Minnesota, Kansas, Nebraska and New Mexico by the Acts of 1853 and 1854 and the Act of 1854 securing

¹ This law has been so important in connection with the settlement and appropriation of the Public Domain that some of its provisions are stated here:

1. Any head of a family, widow, or single man over 21 years old, either a citizen or having declared his intentions of becoming one might exercise the pre-emptive right, provided:

- a. Settlement should have been made on lands the Indian title to which had been extinguished.
- b. The lands had been surveyed.
- c. He should have inhabited and improved the same and erected a dwelling.
- d. He had not exercised his pre-emptive right previously.
- e. He did not own over 320 acres in any state or territory.
- f. He had not abandoned his own land for public land.

2. No person might register for more than 160 acres.

3. Certain lands specified were not open for entry, including Indian lands, sections set aside for educational purposes, public improvements, saline and mineral lands, etc.

4. With more than one claimant right of pre-emption rested with the first settler provided other conditions were met.

5. Proof of settlement and improvement had to be made satisfactorily to the register and receiver of the land district.

6. An oath to cover all of the preceding was required with penalties for perjury.

persons to lands within railroad grants when settlement was made prior to the withdrawal of the lands from the market.¹

The two characteristics of the system created by this Pre-emption Act of 1841 and subsequent enactments were practically: credit sale and private contract. The essential conditions of pre-emption were actual entry upon, residence in a dwelling, and improvement and cultivation of a tract of land, with the privilege of buying at the minimum rate of \$1.25 per acre. Later the pre-emptor had the privilege of filing on his land,—unsurveyed and surveyed—deferring payment for from twelve to thirty-three months. This was practically credit and private sale. As such it was a great step, ideally, in the democratic distribution of the Public Domain, superseded in this respect, however, by the homesteading system, yet continued for several years, as an ever-present hope to the land grabber and exploiter of the nation's natural wealth. The opportunities under it for speculation, fraud and misdealing were practically unlimited and general social and political conditions provided but little control. Such developments did occur. The Homestead Act did not seem to better things much either as long as men wished to take advantage of the opportunities for large personal gain—legitimate or illegitimate.

But the distributing land policy of the United States did not culminate until the passage of the Homestead Act of 1862 with its succeeding enactments. This law soon eclipsed its immediate predecessor in the extent to which immense areas were opened to occupation. Unfortunately, however, the execution of this law was accompanied by terrible abuses though, indeed, it was conceived in part to minimize them. The movement toward free distribution of

¹ Cf. *Public Domain*, pp. 214-215.

land for which the law is chiefly noted dated back several years before its final passage and apparently was correlated with the changed attitude respecting the disposal of public lands from that of disposing of them for revenue to that of supplying citizens with the opportunity of becoming land holders and "free men."¹ Miss Coman says:

Agitation for the free distribution of the public lands had been persistent and unflagging for twenty years before the war. The Free Soil Democracy had led the movement with its proposal that the soil of our extensive domain be kept free for hardy pioneers of our own land and the oppressed and banished of other lands seeking homes of comfort and fields of enterprise in the New World. Whigs, like Daniel Webster; humanitarians, like Horace Greeley; abolitionists like Gerrit Smith; labor reformers, like George Henry Evans, were not less ardent supporters of a democratic land policy. In 1845 Andrew Johnson, of Tennessee, had brought forward in the House of Representatives a resolution in favor of giving every homeless citizen a portion of the national domain. Senator Stephen A. Douglas introduced a bill to the same effect in 1849. Several times a homestead bill passed the House of Representatives, only to be defeated in the Senate. The negative vote came largely from the Southern states, which then held the balance of power in the upper house. Finally (June 19, 1860), after lengthy conferences, Senate and House agreed to concur in a bill providing that any citizen of the United States, being the head of a family, might take up a quarter section of unappropriated land, settle thereon, and secure title after proved residence of five years. The Senate's contention that a cash payment of twenty-five cents an acre be required, was

¹ It is estimated that, from the beginning of the pre-emption system to 1882, 170,000,000 acres of land were disposed of. Cf. Donaldson, *op. cit.*, p. 678.

accepted by the House with considerable demur. Even so, the bill was vetoed by President Buchanan.¹

However, when the southern states had withdrawn their representatives from Congress, the Homestead Bill was passed without opposition and was signed by President Lincoln on May 20, 1862.²

The Homestead Act threw open the whole Public Domain to all comers with practically no let or hindrance. It practically made potential economic independence a complete fact by allowing any man to acquire a competence in land with practically no capital save his energy plus a nominal fee, equal to \$34 on the Pacific Coast and \$26 in the other states. Professor Hart says of it in his paper on "The Disposition of Our Public Lands:"³ "The effect of this act has been threefold. Under its provisions and those of the similar timber-culture act of 1873, immigration has been stimulated, the revenue from the lands has been practically little, and ninety millions of acres have passed from the Public Domain into private hands. In some respects, the rapid settlement of the West, which has been greatly favored by the generous policy of the government, has undoubtedly conduced to the welfare of the country, and has made possible our elaborate systems of transportation and distribution on a large scale. It is, nevertheless, a question whether the present generation, as well as posterity, might not have been equally prosperous if the government had made the conditions of acquirement more rigorous." At all events, so rapid was the occupation of lands opened by the law that what was once a frontier country had practically dis-

¹ *Op. cit.*, pp. 279-280.

² xii, *Statutes-at-Large*, 392.

³ *Op. cit.*, p. 176.

appeared by 1880,¹ except for the more mountainous states.

The Homestead Law practically superseded the pre-emption acts by containing in it pre-emptive features. Yet the latter continued a very present hope to the land-grabber until 1891 when an act of Congress, after a long, bitter struggle put an end to the system existing under that name.² The original Homestead Act was amended several times, generally in the direction of extending its privileges and making settlement of lands and the perfecting of title more easy.³ Two special features attached to homestead laws indicate the desire to make land occupation less difficult.⁴ One feature has been called "commutation." If a locator wished to buy his homestead outright at the end of a stipulated period—six months at first and later increased to a year and a few months—instead of waiting to complete his homesteading period of five years, he could do so upon due proof, by paying a regular purchase price. Vast quantities of public land have thus been taken up. By this it was thought to assist the honest settler, but like many other provisions it was also not an unmixed blessing. The Public Lands Commission of 1905 reported that the "commutation clause" was a happy expedient by which public lands were rapidly passing into the hands of corporations or large landowners. It discovered that the greater part of commuted homesteads remained uninhabited; also, that in many counties 90 per cent of the commuted homesteads were transferred within three months after acquisition of title.

¹ Bogart, *The Economic History of the United States* (1907), p. 268.

² *Public Domain*, p. 678. For this law see xxvi, *Statutes-at-Large*, 1095.

³ *Public Domain*, p. 349.

⁴ *Ibid.*, p. 350; cf. also, *U. S. Compiled Statutes*, 1901, vol. 2, sec. 2301.

The records showed that in a majority of cases the commuters immediately left the vicinity, and that a large portion of them were women who immediately transferred title through convenient agents. Lax administration concerning the occupation laws was claimed by the Commission to be largely to blame for this state of affairs.¹ The other provision was to the effect that: "No lands acquired under the provisions of this act shall, in any event, become liable to the satisfaction of any debt or debts contracted prior to the issuing of patent therefor."²

The following statistics on the distribution of the Public Domain are given by the Public Lands Commission report to which we have already referred:

APPROXIMATE DISPOSITION OF PUBLIC LANDS TO JULY 1, 1904
(*Excluding Alaska*)

Disposition.	Acres.
Land sold for cash under various acts	276,558,218
Railroad construction grants	117,550,292
Forest reserves.....	114,502,528
Final homestead entries.....	96,495,030
Indian lands.....	73,045,861
School grants to states and territories ³	69,058,443
Swamp land grants	65,739,264
Entries pending (various, estimated).....	39,525,840
Confirmed private land claims.....	33,440,482
Scrip and miscellaneous	32,378,421
Grants to states and territories (various purposes ³).....	20,587,863
Final timber culture entries.....	9,745,433
Wagon road, canal and river improvement grants	9,712,421
Lands sold under timber and stone act	7,596,078
Mineral lands.....	1,731,275
Total disposition	967,667,449
Unappropriated public lands of United States	841,872,377

¹ Cf. Senate Doc., 58 C., 3 S., vol. 4, no. 189, pp. xvii-xviii.

² Homestead Act, Sec. 4, xii, *Statutes-at-Large*.

³ To Nov. 1, 1904.

The chief item of interest about this table is not only the extent of "land sales" but of "land grants" for various purposes. It is on land grants that Congress and also the several states have so often been called to answer charges of recklessness and improvidence and justly as subsequent events demonstrated. Land grants were made in many different ways and for different purposes, both by the federal government and by the several states falling within the Public Domain.

For the first four decades of American history land grants took two forms chiefly—those to soldiers and Canadian refugees identified with the Revolution, and small gifts to individuals in recognition of special services as for instance the township granted to Lafayette in 1824.¹ Thousands of schemes were presented to Congress contemplating the alienation of large areas to private possession, but few carried through. But they were the fore-runners of large grants which came later. Grants for military service in various wars amounted to a little over 61,000,000 acres by 1880.² The various swamp-land acts disposed of enormous quantities of land and at the same time produced a vast amount of fraud and trickery, it is charged, on the part of states, individuals and corporations. Donaldson, reporting in 1884, said:

Millions of acres have been listed as swamp lands, which are now suspended for investigation. Special agents have been, and are now, employed to unearth frauds under this act against the Government. The Commissioners of the General Land

¹ Hart, *op. cit.*, p. 175.

² *Public Domain*, p. 232.

Office for years have called the attention of Congress to the frauds and attempted frauds under these several acts by States and their agents. The amounts realized by the different states and the prices paid to them by individuals and corporations for the lands (many as low as ten cents per acre, and now the best agricultural land in some of these States,) would make an interesting chapter.¹

The legislative and political history of various states in these matters would undoubtedly prove fruitful fields for investigation. A total of 69,206,522.06 acres was claimed to June 30, 1880, on these acts, and patents were issued for 51,952,196.10 acres.² These (supposedly) inundated lands were simply conceded to states on a policy of securing public and private property, encouraging public improvements such as levees, and reclaiming lands which otherwise would lie unused and unfit for occupation. In time the country awoke to a realization that under such munificence and with the connivance of dishonest government officials and scheming promoters vast areas of the best low lands and agricultural soils had been surreptitiously alienated for private benefit. The value of swamp lands is now being increasingly recognized. The country will some time fully awaken to the situation produced by past policies.

Land grants for educational purposes were dictated by the highest ideals of democracy in spite of the fact that many of the states have squandered, lost or misused these lands set aside for the purpose of establishing schools.³ With all the waste surrounding the administration of these lands, these grants have made possible, in large part, the national

¹ *Public Domain*, pp. 220-221.

² *Ibid.*, p. 221.

³ Hart, *op. cit.*, p. 177.

school system of to-day, called by many the bulwark of American democracy. These school grants aggregated 78,659,439 acres by 1880, of which 67,893,919 acres were distributed to the common schools beyond which comparatively few children go.¹ The setting aside of every sixteenth and thirty-sixth section in a township for school purposes, every sixteenth section prior to 1849 and both thereafter has been one of the most beneficent public acts for the conservation and development of American ideals in the nation's legislative history.

Problems of internal improvements confronted the West when population had exhausted available lands contiguous to navigable waters and it was forced to the interior. Then the need of adequate transportation and communication facilities became pressing, and because of the weakness and ambitions of new communities they were forced to seek both state and federal aid. It was from these conditions that the great land grants for internal improvements such as for roads, canals and railways developed. The first federal act, that of April 3rd, 1802, provided in the Ohio enabling act, for one-twentieth of the net proceeds of public land sales to be handed to the state for the purpose of constructing roads from waters emptying into the Atlantic, to the Ohio River.² By the congressional act of the next year three per cent of the proceeds from land sales was provided for laying out, opening up and making such roads. Similar legislation continued until after 1823. Indiana was recognized by a canal act, including right of way, in 1824, but it was not used. In 1827 and 1828 further measures, with subsequent legislation, gave to Ohio, Indiana and Illinois 2,-

¹ *Public Domain*, p. 223.

² *Ibid.*, p. 257.

014,816 acres of land to aid in canal construction.¹ Canal grants from 1824 to 1866 amounted to 4,424,073 acres.

Granting of lands to railroads came next. Such grants have been most important in connection with the disposal of the Public Domain. The first congressional enactment providing a railroad land grant authorized Illinois to divert the canal grant of 1827 to construct a railroad with the proceeds of land sales. This was in 1833.² Nothing was done, however. The Act of 1850 was the first railroad act of real importance. From it came the construction of the Illinois Central Railroad. This granted lands amounting to 2,595,053 acres, to the state itself, which in turn granted to the railroad company. Later the federal government granted directly to roads. The above mentioned act extended like privileges to Alabama and Mississippi. Later, for similar purposes, followed grants to Missouri, Arkansas, Minnesota, Iowa and other states preceding the grants direct to the railroad companies.

The grant of public lands to the Union Pacific was the first one of this kind. This was the first of the well-known Pacific roads to seek and secure federal aid in construction and the temper of the country was such, and the demand for transportation facilities so great that these grants assumed in a short time amazing proportions. It has been estimated that it would have required 215,000,000 acres of public territory to satisfy the requirements of various grants if corporations, state and national up to 1880 had fully complied with their provisions and completed the construction of the mileage on which they had secured grants.³ When once the government entered the business of thus en-

¹ *Public Domain*, p. 258.

² *Ibid.*, p. 261.

³ *Ibid.*, p. 268; cf. also *infra*, Section on Railroads, Chap. viii.

dowing these enterprises the movement assumed astounding proportions.

The extent of the grants up to 1883-1884 for general purposes of internal improvement, even comparatively early, especially for railroad construction, may be seen by noting the following figures given by Donaldson.¹

GRAND TOTAL OF RAILROAD AND MILITARY ROAD GRANTS PATENTED
1850 TO 1880.

	Acres.
Grants to States	35,214,978.25
Grants to corporations and Pacific Railroads.....	10,435,048.08
	<hr/>
	45,650,026.33
Lands forfeited by Act of Congress deducted.....	607,741.76
	<hr/>
Railroad, actual area in acres.....	45,042,284.57
Military wagon road grants.....	1,301,040.47
	<hr/>
Grand total	46,343,325.04
	<hr/>
Estimated area, including lands already patented, necessary to fill and complete all grants to railroads under existing laws	155,504,994.59

According to Bogart, to this final total should be added 55,000,000 acres appropriated for railroad construction by various states.² The total area granted amounted to about 312,500 square miles of area.³

The significance of these huge grants of public territory cannot be quickly grasped. Henry George, Jr., says of them: "This gift of our public domain to our western railroad companies was sufficient to have made 2,000,000 American farms of 100 acres each. . . This land gift is

¹ *Op. cit.*, p. 287.

² *Op. cit.*, p. 308.

³ *Cf. infra*, ch. viii, section on *Railroad Grants*.

equal to the combined areas of the states of Maine, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia and North Carolina.”¹

All of the lands granted were not equally valuable, however, especially those of the arid regions being of small immediate value. The railroad grants, however, are important not only because of the actual territory granted but because of the control exercised over contiguous territory — that is, adjoining sections of land destined to future settlement.² But land alone was not the only help extended to western roads. According to Mr. George, again, the Northern Pacific, Union Pacific, Atlantic and Pacific, Southern Pacific and Texas Pacific received from the federal government alone United States bonds amounting to \$64,000,000³ for subsidy purposes besides state and municipal aid.

A discussion and outline of public land policies would not be complete without reference to the timber culture, timber and stone and desert land acts as they were part and parcel of these policies. In a sense they were outgrowths of the pre-emption and homestead systems in that they aimed, on their face at least, to make settlement more easy and to encourage the occupation of the Public Domain. Briefly, the Timber Culture Act of 1873, as amended in 1874 and 1878, granted to settlers treeless tracts of 160 acres for the encouragement of tree culture.⁴ This was a timber bounty act. Ten acres of the acreage entered was to be

¹ *The Menace of Privilege*, p. 38.

² See railroad land grant maps, *Public Domain*, p. 949.

³ *Op. cit.*, p. 38.

⁴ xvii, *Statutes-at-Large*, 605-606; *ibid.*, xviii, 21; xx, 113. Repealed, 1891.

devoted to trees for eight years, upon which patent would issue, upon payment of \$18 in total fees. The Stone and Timber Act of 1878 authorized the sale of timber land unfit for cultivation and lands chiefly valuable for stone at \$2.50 per acre to the extent of 160 acres.¹ At the same time a direct trespass law was passed to prevent timber depredation. The Desert Land Act of 1877 applying to most of the western dry land states allowed entry of 640 acres on a three-year credit basis to permit time for irrigation. This act was directed at the reclamation of dry and arid lands.²

While these various laws and acts have been productive of great good, they may also be easily characterized by the fraud, illegality, exploitation and injustice which has continually marked their application. Conceived as a part of the general land policy of the country, an extremely democratic system in idea if not wholly in results, these respective laws have offered splendid opportunities to the "land-grabber." From them, one may see by consulting succeeding land office reports to Congress, have resulted most serious abuses. Yet Congress has seemed unwilling, though possessing the power, to take the proper remedial action. Such are the main facts, briefly stated, concerning the distribution of public lands in the United States and their occupation. The distribution and occupation of these territories have been surrounded with circumstances of the greatest immediate concern not only at the time these lands were passing into the hands of the people—or of the corporations and large interests—but for the future. The history of the United States in many directions can perhaps

¹ xx, *Statutes-at-Large*, 89.

² xix, *Statutes-at-Large*, 377.

be interpreted in terms of its policy and the public attitude respecting its Public Domain. In this chapter we have related the gradual change from a policy of selling lands for revenue to one of promoting settlement and land holding on a democratic basis while at the same time huge areas have been directed into single hands.¹ That many and perhaps most of our public men and legislators have been constrained by honest and worthy impulses in the performance of their public acts is indoubtedly true. Yet, on the other hand, men with decidedly opposite ideals have been in evidence, both within and without public halls, and their activities have far from helped to conserve public interests. Our policies concerning the disposition of public lands have not been unmixed with evil. In great part this has been due, however, to conditions which have necessarily existed during a period of rapid occupation.

National land policies and the history surrounding the disposal of the Public Domain, in its various forms, in fact, are inextricably entwined with the history of the westward movement of population itself and with the progress and development of ideals of democracy and individualism. On the one hand, it has been conceived that public territories and economic opportunities were to be distributed in accordance with democratic ideals. Hence the Pre-emption and Homestead Acts, if not the huge grants. On the other hand, at each point and at each step we find public property subject to abuses, exploitation and fraud, expressive of the strongest individualistic ideals which though a companion of democracy do in effect abridge its healthy oper-

¹ This development has passed through the several stages as follows: land sales for revenue; credit sale; cash sale; pre-emption; homesteading; homesteading with commutation; plus various special systems as under the Timber Culture and Desert Land Acts.

ation.¹ Two factors have been at work which, though not on their face antagonistic to each other, have in fact produced results or tendencies which may easily be conceded, as is further shown, to be seriously inconsistent and pregnant with serious difficulties.

Further, the land laws themselves, as they were developed, have paralleled that growing sense of democracy and equality developing in the country. It has been noted how the homestead and commutation system represented the climax of land distribution. On the other hand, at each stage, the most serious complications have interfered continually with the operation of the laws as they existed. Individuals, companies and the states themselves proceeded to secure what they could of the Public Domain through purely individualistic and personal interests, with no respect to the intent of the law or to wide national or social interests. In fact the law has been often openly defied, offenders trusting to the unsettled conditions in the country, to possible connivance in land offices, and to an apparent social opinion or public attitude which though not directly authorizing such infractions of law, in effect sanctioned them by silence. Throughout our "land-history," local and private interests have had precedence, much of the time, over considerations of social welfare and it may be conceived that public morals have been affected in no mean way. While policies of public land distribution have followed a democratic line of development on the one hand, on the other hand it can easily be seen that personal and individualistic interests have much of the time been at the bottom of these developments. The question is whether the Public Domain has not been regarded more as a means of satisfying desire for individualistic and private exploitation than to conserve

¹ Cf. *infra*, chaps. vii and viii.

or extend wider social and democratic interests. If this is so the problems it produces are apparent.

During the past century the country has passed through a marvelous growth. Policies adapted to certain periods have not been advisable subsequently though no adequate provisions, legally, have been made to fit changed conditions. Undoubtedly the conditions themselves have had much to do with this. During early periods settlers were wanted; means of communication also. Attractive inducements in land entry and land grant were offered. Under these a wilderness rapidly turned into a subdued domain. Public land during this period was regarded as of little or no value, to be given away or sold cheaply. With this, petty fraud and gigantic swindles came into existence and flourished. Attempts to remedy this system of practical robbery were fought in and out of legislative and administrative halls by the representatives of those who were profiting under these conditions. Offenders escaped punishment, legal action was delayed and the wheels of justice absolutely blocked.¹ Briefly, nothing in our local and national public life is of greater significance than the policies and experience pertaining to the Public Domain.

Quoting Hart: "The fundamental criticism upon our public land policy is, not that we have sold our lands cheaply, not that we have freely given them away, but that the gifts have in too many cases inured to the benefit of those whom the government meant to ignore. The 'land-grabber' is, in most cases, simply taking advantage of the chances which a defective system has cast in the way of shrewd and forehanded or unscrupulous men. The difficulty is certainly not in the Land Office, which, in the midst of perplexing complications, has striven hard to protect our lands. The

¹ Cf. Washington Dispatch, *New York Morning Sun*, Sept. 16, 1909.

fault lies at the door of the Congress of the United States, which has the power but not the will, to correct notorious defects in our system. Still further back, the fault is with the free citizens of the Republic who have been too busy to insist that there should be a comprehensive land policy, providing for the equitable disposition of all classes of the public lands." ¹ To which we would add; and behind this are those natural conditions which have obtained in national development, reflected in economic life and social and political institutions. Our national land policy supported by conditions of natural development and popular ideals has been to spend without foresight and waste the Public Domain, not to conserve it. It has distinctly been a stimulus to both democratic and individualistic ideals.

In the light of comparatively recent demands and definite movements for the conservation and the disposal of the remaining Public Domain a new development, turning upon wide social interests, can now be clearly discerned. These are the elements which inject a new hopefulness into our national policies respecting public property. In them we see reflected a growing public sentiment demanding recognition of broad social interests prior to narrower personal or private interests such as have dominantly led to the illegal as well as legal expropriation of public lands and natural resources. A rising tide in public opinion demands a change in policy of far-reaching importance in the administration, regulation, disposal and development of the remaining portions of the Public Domain. A public aroused to action over pernicious alienations of public lands is increasingly marked. A President elicits popular approval, as also private disapproval, in advocating a system of leasing mining properties to private parties instead of turning them over

¹ *Op. cit.*, p. 183.

to private ownership in perpetuity, as also in seeking for greater safe-guards for remaining public property in the West. Recent disclosures of the efforts of private parties to secure valuable lands in Alaska draw out most severe public condemnation, and particularly in the West, though such practices have been but common in preceding decades. Sad experience is fortunately producing its fruits.

In other words, the public, especially the western public, appears to be changing its opinion in matters relating to the Public Domain. A feeling that the remaining Public Domain should be disposed of or conserved primarily from a social point of view rather than from that of pure private interests is increasing. This is a view unmistakably revolutionary as far as our general public domain policies are concerned. Yet it will produce the widest and most far-reaching reforms on behalf of public interests and general social welfare. The difficulties confronting those who are endeavoring to render this new point of view effective are already being more vividly seen by the country at large. Why this is so and will probably continue to be so for an uncertain period the remaining pages will endeavor partly to point out.

CHAPTER III

WESTERN OPTIMISM

ONE cannot fully comprehend the real character and import of the westward movement and the western idea coupled with the opening of the Public Domain and certain problems thereby arising without an appreciation of that spirit of buoyant optimism and that element of vigor which has characterized it and those who have had a part in it. It is by these characteristics that the American seems known to the world, yet one does not need to go far before he discovers the source, in large part, of these characteristics. Their particular interest, however, lies in the undoubted relation between them and the peculiar material conditions which have obtained in America particularly during the past century. Land occupation has been the central thought in the history of the West. As the history of the United States may be interpreted largely on the basis of an expanding territory, externally and internally, so will the evolution of social institutions in the West find their best interpretation in terms of land occupation and exploitation. The truth of this is more evident when we recall the far-reaching plans for internal improvements leading to such disastrous consequences; the rapid construction of railways involving huge grants; the confident mapping of new cities and subsequent periods of stagnation; the successively feverish periods of speculation; and the exploitation of natural resources.

The remarkable "settlers' rushes" into the Indian and

Oklahoma Territories, into the "Cherokee Strip" and other newly opened areas, even of recent date, restricted and intensified as they have been, are not dissimilar from the greater "land rushes" which have taken place for the past hundred years and more. The same general spirit of confidence, enterprise and optimism are there. The increase of 356,000 persons in Ohio's population from 1810 to 1820, or 157 per cent; of 581,000 souls from 1830 to 1840, or sixty-seven per cent, a smaller ratio but involving larger figures; of 122,600 persons, or 510 per cent in Indiana from 1820 to 1830; a doubling in population during the next decade and an increase of 300,000 during the next ten years,¹ indicate, somewhat, this spirit. Land occupation has been a dominant note in the nation's life. Illinois, Michigan, Iowa, Kansas—all of the western states have had practically the same experience.² Appreciating the remarkable character of western history interpreted in these terms, one naturally looks for important developments in social life in its relation to the rise of the modern industrial system. Occurring together as they have, the results are all the more vital.

The occupation of the West has not been a steady process. It has occurred by leaps and bounds, by waves and impulses. Now this has been of great moment in the adjustments necessary in the occupation of large new territories. Taussig makes this plain. He says: "The process of settling the country and taking up the new lands of the United States has never taken place by regular and steady steps. It has taken place by spells of great activity, accompanied by land speculation and rapid railway building, followed by periods of dullness and reaction, in which the

¹ U. S. Census Reports, 1900, vol. i, on *Population*, p. xxv.

² See tables, *infra*, ch. i.

advance for the time being has almost ceased. At intervals of ten years, more or less, the population has gone West *too fast* and then has waited to recover and take breath for a new effort. In general, the tendency has been to take up new lands quite as fast as, if not faster than, there was profitable use to be made of them. The desire to secure almost certain future rise in value has caused men to appropriate land and use it before the world really needed its product."¹ This is largely explanatory of the terrific process of exploitation to which the country has been subjected.

This is the fundamental explanation of extravagant speculation from the earliest New England colonizing movements in Ohio to the wildest periods in Indiana, Kansas and Nebraska in the occupation of open land and in the location and establishment of cities and villages. Speculation has been a constant and impressive companion to all western population movements. More than that it seems to have been the dominant fact as certain financial crises will attest.² One can see in it also, as was suggested by Dr. Albert M. Shaw in a lecture at Columbia University in 1907, a very probable incentive, at least in part, of "graft" as it is known today. The inordinate desire to "get rich quick" and the possibility of it induced by increasing and fluctuating property and land values brought about by extensive and intensive population movements and the rapid opening of new vast areas and natural resources, have simply overtopped themselves and have encouraged the exploitation of new fields though this might mean even social exploitation. The history of internal improvements, the administration and construction of public works, abuses circling about state

¹ "Silver Situation the United States," *American Economic Association, Publications*, vol. vii, p. 104.

² Seligman, *Principles of Economics*, p. 586.

land grants, and other phases of political history give quite sufficient grounds for such a statement.

Speculation has been a constant factor in American internal history. It has largely been a product of the conditions which have constantly obtained. Land speculation led to the uncertain prosperity of the years from 1820 to the crisis year of 1837 as Professor Seligman has pointed out.¹ Of this period Professor Dewey remarks:

The central point in this development [speculative prosperity] was land settlement complicated by land buying for future sale. . . . The fertile soil disclosed in these Western prairies compared with the rigors of agricultural life on the Atlantic seaboard excited the imagination and naturally led to exaggerated hopes . . . the possibilities of the future seemed unlimited. The too generous credit system of the government toward land purchasers stimulated still further the feeling that the success of the future would make up for any imperfection in present achievement. As the market value of land frequently rose to much above the government selling price there was an eager contest on the part of those who could borrow money, to buy for speedy sale at an advanced price or to hold the land for a future profit. Borrowers found ready accommodation at local banks, and with loans thus secured made their purchases from the land receiver, the purchase money in many instances was thereupon re-deposited by the government in the bank whence it came, where it and more served as a loan to another or even to the same land speculator.²

This is largely the cause of the tremendous growth of banks during the period. Readers of Henry George will remem-

¹ *Op. cit.*, pp. 583, 586.

² *Financial History of the United States* (1903), pp. 224, 225.

ber his classic argument on the influence of land speculation in the evolution of crises such as that of 1837.¹

But the crisis of 1837, with its antecedent causes, does not stand alone in indicating the temper of western population. Various states, among them Indiana, Illinois, Ohio and Michigan, became thoroughly entangled in financial difficulties because of a spirit of over-confidence. Extravagant schemes of internal improvements swept whole states away from stable moorings. Public debts so increased that retrenchment or ruin were the alternatives. State offices were used to further private enterprise. Says Parrish of early Illinois: "Many of the earlier legislators were little worthy of honor. The interests of the people received slight consideration, while all manner of combinations were formed for the parcelling out of fat jobs for personal benefit."² Extravagant plans were financed by states to satisfy citizens who were tossed high on the wave of over-confidence. For a time there seemed to be no limit to which they would be carried. The states had incurred no liabilities up to 1820 but debts soon began to pile up, much of them for unwise and premature or unnecessary enterprises. But speculation in a new country is inevitable and an excessive enthusiasm for internal improvements of all kinds, especially for transportation and communication systems, was largely responsible for the reactions of 1837 and 1857.³ It took these years with their depressing effects to show the country the state of affairs and to what extent recklessness and extravagance begotten in speculation had carried them. These were also periods of more or less political corruption. What opportunities for the lining of private pocket books at pub-

¹ *Progress and Poverty*, bk. v, ch. i.

² *Historic Illinois*, p. 361.

³ Shaw, *Political Problems of American Development*, p. 93.

lic expense!¹ Receipts from governmental land sales were about \$5,000,000 in 1834; \$15,000,000 in 1835; \$25,000,000 in 1836. But the next year there was a sudden slump to \$7,000,000 and for the following ten years they annually amounted to only about \$2,000,000.² The speculative bubble burst at last through excessive inflation. Lands could not possibly sustain the speculative valuations placed on them. A periodical published only a few years later said: "When their [the people's] hopes had been raised, and their judgment somewhat disordered by the fever in their veins, and they saw the means of accomplishing these great objects not only within reach, but almost thrust into their hands, it is not strange that they seized upon them with incautious eagerness, and expended them with a prodigality somewhat in proportion to the ease with which they were attained."³

As a result of this speculation-fever borrowing became a mania. Banks sprang up in great numbers. States became saddled with great debts. The period of rapid expansion after 1820 was too much for the country. Yet at later periods similar developments may be observed. Europe became embroiled, also, and loaned great sums until the repudiation of debts by certain states broke the

¹ It is quite apparent that it is impossible to entirely segregate different portions of the country for analysis as does a biologist a specimen under his glass. The country has been and is closely knit together in its interests. Tendencies apparent in the West have had a reflection in the East and vice-versa, but to a lesser degree in the latter case. Yet, withal, the West has had a peculiar history. Particularly is this so in relation to these matters relating to internal history, settlement and establishment of the population. The recurring periods of hard times showed how ill-advised, premature and unnecessary many of the "improvements" were. Cf. Bogart, *op. cit.*, p. 196.

² Dewey, *op. cit.*, p. 246.

³ *North American Review*, Jan., 1844, "Debts of the States," vol. lvii, p. 115.

spell of enchantment. An accepted policy had been to build canals, for instance, not on the basis of existing but on expected resources and when the latter were lifted inordinately high serious results were almost invariably found to follow. When Ohio began the construction of canals it had a population of less than a million people and only about \$56,000,000 worth of taxable property. It therefore resorted to borrowing. No part of the income, moreover, was used to extinguish any part of the public debt.¹ Little of the money spent for public purposes was raised by taxation. It was practically all borrowed at home or abroad.² The people of the state officially adopted the policy of causing succeeding citizens to pay the bills for privileges of which they themselves would be the chief beneficiaries.

The injection of a Civil War into the internal history of the country even though discouraging and repressive as it was, seems not to have appreciably interrupted further expression of the characteristic optimism of the frontier except in southern states. In fact by dislocating, to a considerable extent, parts of the southern population, it had no small part in pressing the frontier westward even more rapidly. This rapid westward pressure found a remarkably interesting expression in the magnificent series of land grants to railroads which beginning in 1850 dominated the history of the West for two or three decades. These in turn, in so far as they related to joining the Pacific and Atlantic sea-boards, were, for the most part, a direct result of the movement of population toward California which began with the gold rushes of 1849. These fired the imagination, keyed restlessness to a high pitch, and sent

¹ *History of the Ohio Canals* (1905), pp. 82, 109, 120.

² Bogart, *op. cit.*, p. 195.

a surging wave of population through to the Pacific coast. This came toward the close of a period of financial storm which the country had but barely weathered. It was but getting on its feet again to in turn pass into another period of inflation and speculation when the crisis of 1857 again brought the country face to face with a state of affairs, similar to that of the previous decade due, chiefly, to that optimistic mania of speculation common throughout western settlement. The panic of 1857 was again caused by undue speculation. Quoting Coman:

The extraordinary success of many business ventures tempted men to invest too heavily. The purchase and improvement of lands in the new West, the opening up of mineral resources—notably coal and iron in Pennsylvania—the building of ships, the construction of railroads all required large investments of capital that could bring no immediate return commensurate with expenditure. The \$1,350,000,000 buried in railways between 1830 and 1860 represented an enormous drain on the resources of the country. The sinking of one fifth as much capital in canals had brought on the crisis of 1837. As then many canal ventures were abandoned so now several western railroad enterprises failed.¹

The main financial difficulties of the West resolve themselves into over-confidence and over-speculation in futures. Speculative enterprises were launched long before the country was ready for them. Railroad building is especially typical of this condition. While during the ten years preceeding 1848 average annual road construction was 380 miles, during the next seven years, it amounted to nearly 1800 miles per annum.²

¹ *Op. cit.*, p. 242.

² Larrabee, *The Railroad Question*, p. 79.

Though land grants to railroads did not really begin until 1850 the advantages to be secured by railroads through these grants were quickly perceived. The people of the West were only too willing to initiate the system, not only of providing railroad companies, gratis, right-of-way, but of presenting them with vast areas of most valuable lands to be used not only to "assist" in constructing roads, but as property in perpetuity of great and increasing value. The key to these huge land grants lies largely in the fact that the country was improvident of public property, and restless and impatient, characteristics developed and fostered by those conditions and circumstances holding in the West which have been so closely related to the successive periods of inflation, speculation and crisis. The occupation of the new country was to be done quickly and on a large scale with each man reaping for himself all the benefits he could possibly secure.

The period of railroad building accompanied by the system of land grants, largely, in most western quarters at least, a speculative matter, was brought about in large part by the extent and character of the population movement itself. It was an associate of those conditions which have continually dominated the West. Though the "Tom Thumb" made its trial trip over the thirteen miles of track between Baltimore and Endicott's Mills but in 1831, a through route between Lake Erie and Cincinnati was completed by 1848. Three years later another more direct line was opened. The same year the Erie Railroad connected Lake Erie and the Hudson River, and the next year Chicago secured eastern connections by the Michigan Southern and the Michigan Central. Three years later the Mississippi was reached by the Chicago and Rock Island Road. In 1856 the Illinois Central tapped the Mississippi at Cairo, and the Chicago, Burlington and Quincy Railroad reached

Quincy. About the same time Cincinnati and St. Louis were connected; likewise Pittsburgh and Chicago in 1850 by the Pennsylvania Railroad. By the end of the next year the Hannibal and St. Joseph Railroad reached the Missouri and eight years later Council Bluffs became the western end of another road.¹

It is the marvellous increase in railroad mileage in the West, beginning particularly with the land grants which marks the country's development.² Had it been a healthy development so much seriousness would not be attached to it, but because of its connection with an unsavory portion of our internal history in relation to the Public Domain and in relation to speculation and exploitation of the country, one finds in it matters for serious reflection.

The amount and character of railroad building and railroad land grants have been cited to indicate somewhat the spirit of buoyancy, confidence, speculation and often recklessness which has been noted constantly in the West, and of which the constantly recurring financial crisis periods have been expressive resultants. It is not difficult after even a study of these few facts to see what effect the economic stimulus of the West and the movement of population itself, have had in our national life, particularly in the exploitation of natural resources. It is but natural, therefore, for us to look further to see in what other ways these factors have operated.

Financial crises are largely the result of an over-expansion of credit, in turn induced by the too rapid growth of enterprise in which obligations cannot be met easily, culminating in some one or more incidental causes which break

¹ Larrabee, *op. cit.*, p. 80.

² To realize the extent of railroad construction from 1830 to 1860, see Coman, *op. cit.*, map opposite p. 238.

down the structure of inflated values and credit with them. This was the difficulty in the West. Permanent investments of capital—much of them in land buying—made on a large scale, much of them on borrowed funds, and with returns not rapid or large enough to meet financial obligations, broke down credits, made the financial markets rigid and brought a structure of over-estimated future returns down to the ground until a slow readjustment of economic conditions set the wheels of financial life in operation again. This cycle has been a regular recurrence in American industrial and financial life. The successive crises of 1837, 1858, and 1873 in relation to speculative conditions in the West connected with the occupation of the Public Domain and the forwarding of internal improvements on a speculative basis are too well known to be discussed further.

What may be said of the West in general concerning speculation in land and other enterprises may also be noted specifically and more particularly in connection with local communities. Very few cities or towns of the West have escaped their "boom days," many, most of these "booms," having no firmer foundation or substance than the free air of the prairie. Cities in Iowa, Kansas and Nebraska have, most of them at some period of their history, become entangled in a "boom." The "boom" days of the seventies and eighties are still vividly remembered. Even the recent traveler in western Kansas or Nebraska might have found decayed or decaying towns and villages, in some cases practically deserted, where once a thriving village planned for a roseate future. Cities grew by leaps and bounds. Some have scarcely yet recovered. Thousands of citizens have gladly sold at acreage-prices land which they formerly bought in as city lots laid out on paper and prairie. Cities like Omaha, Lincoln, Wichita, Topeka, Denver—all were swept into the same wild vortex of land over-valuation with

"prospects" of a "sure" future rise which in large part never came. Yet what had such inland cities at the time to warrant such excessive land valuations? Men whose judgment was considered the most substantial, with the rest, were swept off their feet. Then the reflex movement set in and thousands were forced to the wall. Other thousands became "land poor." Holding large acreage in new areas, they could not meet obligations on borrowed money, nor could they sell their land in order to do so—exactly those conditions obtaining antecedent to 1837. Land values shrunk rapidly and where a few months previously a man had borrowed at high interest rates to purchase land at "balloon" prices, he suddenly found himself possessed of acres which could not even produce enough to pay taxes.

This was an expression of that intense onward rush of population toward the mountains which was so dramatically stayed during and preceding the hard-time years of 1893 and 1894 and following, when drought, bad crops, over-expansion and over-confidence doubled the advancing frontier back on itself. It was an expression, also, of that optimism and buoyancy which has characterized the westward-moving population from the time it crossed the Alleghenies until it passed the Rockies. No adequate account of American internal history can be written without noting it.

If optimism is a characteristic of western development it is because circumstances have warranted and produced it. There is no doubt of either. The two are absolutely inseparable. It takes more than social and economic pressure to explain the way a scanty population has been spread to infinite sparsity. Besides the opportunity and profit in the exploitation of natural resources, men in moving on to the frontier, have done so with the full expectation that they would be abundantly rewarded by greatly increased land values. They were not entirely disappointed, for land

and property values have decidedly increased. This has had a considerable effect—an effect exactly opposite to the encouragement of pessimism. Economic rewards have been great and not only has the economic potentiality of the whole country been keyed to a high pitch but also that of each man. The result is obvious to one familiar at all with the West, not only the West of yesterday but also the West of to-day.

Thus it has come about that daring and recklessness have been encouraged. The man of the trans-Mississippi valley and to-day the man of the Pacific coast is known for his ability and intrepidity in initiating and conducting new enterprises. His western inheritance is a broadness of vision and a spirit which scarcely hesitate at attacking the largest of problems and affairs, however poorly prepared he may be. Projects for public improvements and legislative experimentation are signal proof of this. Large sections of new country to-day are being opened with a radiant optimism—man's only capital, together with an individualism which has marked him at every period.

This element of optimism, however, carries with it its own dangers as is plainly evident in the recurring periods of crisis and economic stagnation. Speculation has resident in it most serious elements. Exploitation of the country has, furthermore, been an out-standing feature of this optimistic characteristic of the West; and herein we have its full fruits. A confident recklessness has robbed the soil of fertility, cleaned out forests, wasted oil and minerals and turned huge sections of Public Domain into private lands with no thought of social interests or of future welfare. Conservation, until recently, has been a strange idea. Society has been atomic and individualistic; hence social considerations have been given secondary importance. This is the real significance of western optimism. Confidence in

the future and an individualistic response to economic stimulus has undoubtedly encouraged the *laissez faire* idea, and the latter rebels at policies of conservation until, besides a recognition of economic interests in the same, a feeling of social solidarity takes the place of a perplexing and anomalous atomic social organization. Furthermore, optimism is but one side of foresight, and it is on the exercise of complete foresight that the greatest social interests depend. This element in American development, however, has distinctily encouraged a short-sighted policy of making the future pay for the past. The country to-day is facing great problems relating to progress and social welfare. Already the law of diminishing returns is being felt. It is more difficult than formerly to get returns from nature, and past waste and extravagance are now yielding their fruits. It remains to be seen whether that radiant optimism and discounting of the future which we have witnessed is to be checked or applied in the solution of these increasingly weighty matters.

CHAPTER IV

DEMOCRACY AND EQUALITY IN THE WEST.¹

THE prominent feature of national development in the United States, economically, politically, religiously and socially, in connection with opening of the Public Domain has been the constant frontier and the great westward movement of population. This latter had its basis in the existence of vast areas of land opened for settlement and occupation; in the attractive natural resources of the country—farming, grazing and trapping areas, mines and forests—and in other economic opportunities which a new country offers, including transportation and communication facilities.

¹Limited space forbids any thing but a brief study of one of the most interesting chapters in national development. Citations therefore are necessarily curtailed. The writer is forced to omit references for much of the material included in this chapter and much material proving the essential theses of this and the next chapter.

NOTE.—Democracy can be defined as a form of government, a form of state, or a form of society, or a combination of all three. According to Professor Giddings (*Democracy and Empire*, p. 203), democracy, as a form of government, consists in the actual administration of political affairs through universal suffrage. But this is restricted in its scope. No such form of government can exist on a large scale for it practically excludes representation and a delegation of powers. Democracy as a form of the state is popular sovereignty or popular distribution of formal political power. It may act through representative institutions. Democracy as a form of society is rather democratic organization and control of the non-political forms of association. It may be that indefinite, unformed mass of feeling which may take

The opportunities for gain with an expenditure of a fair amount of energy and common sense were there in profusion. These and other attractions were the main causes which drew from the sea-board a vigorous population and drained off a tremendous stream from Europe where conditions of life were at times so unpropitious. The West also, was attractive to the young and vigorous element, eager for adventure and restless activity. On this Theodore Roosevelt lays considerable weight in his volumes on *The Winning of the West*. Over the first pioneers of Kentucky and Tennessee as well as over those vigorous individuals who pushed out toward the Ohio and Wabash valleys this influence was most powerful. It still may be seen in scattered western parts where some land is still to be had and men push on when "it becomes too crowded behind." This readiness to move on at the slightest pressure has been a distinguishing trait of the frontiersman. Its encouragement of democratic and individualistic ideals is apparent.

The gradual occupation of the West produced a series of frontiers, and frontier conditions of living are distinctly conducive to a status of equality, to the assertion of individual ability and initiative, and to democratic ideal-shape in the direct act of vote. This latter according to Professor Burgess (*Political Science and Constitutional Law*, vol. i, Sovereignty and Liberty, bk. ii, ch. i), would be equivalent to sovereignty behind the constitution. This democracy, as a form of society, is embedded in that net-work of notions in which the individual recognizes his own identity, his own personal worth, his right to express his opinion in tangible form, and remain, himself, a responsible member of the body politic. Equality, at least potential equality, is perforce vitally connected with social democracy. In some aspects equality and democracy are identical. Ideas of equality arising from individual sources, rapidly pass into the social fabric, to be in turn transposed into political democracy.

ism. This may be seen throughout history.¹ In the first place, economic conditions were such as to breed notions of equality; in the second place, a premium was placed on individual worth—it was a time of struggle; and third, the outward social and political expressions of these two encouraged democracy. When the cry of oppression was raised of non-recognition by Virginia of her western districts, the Kentuckians as a unit arose and protested with the Resolutions of 1798.² Professor Merriam interprets many of the democratic movements of the early nineteenth century in terms of frontier stimulus.³ Professor Osgood has called attention to the influence of the frontier at early colonial periods in encouraging individualism and a dislike of central authority.⁴ But what are these influences? Briefly, they are largely the economic, environmental and social conditions which obtain in a new country. Dr. Moses says: "The universal prevalence of democracy in America must, therefore, be referred in large measure to that equality of material conditions to which men are forced by the circumstances of frontier life."⁵ An adequate interpretation of American democracy and individualism apart from the frontier and frontier influences, and not only

¹ The "West" means more than an area or line, however. Besides a shifting zone of assimilation and adaptation it represents a form of society. It is not a frontier in a physical sense alone but in a social sense, a condition, a form of society in which interesting modifying and adaptive processes occur, a society in which the ideas and ideals of personal liberty and individual freedom secure the fullest expression. Cf. Semple, *op. cit.*, p. 81; also Turner, "The Problem of the West," *Atlantic Monthly*, Sept., 1896.

² Cf. Warfield, *The Kentucky Resolutions of 1798*, ch. ii.

³ Cf. *A History of American Political Theories*, *passim*.

⁴ Cf. "England and the Colonies," *Political Science Quarterly*, Sept., 1887, vol. ii, no. 3.

⁵ Cf. *Democracy and Social Growth in America* (1898), pp. 12-13.

what is commonly called the frontier, but the West in general, is impossible.

Economic Status.

In a new country wealth is fairly evenly distributed. If there are differences in economic status they are not plainly evident, nor if evident, regarded seriously. This feeling of economic equality is largely due to the economic potentiality residing in each man when there is opportunity for all and where individual success depends chiefly on individual ability. For this reason individuals tend to be rated according to personal worth, rather than on what they possess.¹ Social distinctions in property are not so much in evidence. This was early observed on the frontier. It persisted too while the frontier passed on, though social distinctions through economic status are now plainly evident. Economic equality has been a distinguishing mark of the frontier and of the new country. From the earliest periods farmers had the greatest difficulty in obtaining hired help because men had an opportunity to possess a farm of their own. Under the early credit system a man could secure a farm of 640 acres for \$331 as the first payment;² with reasonable energy he could make the remaining payments from his immediate profits in farming. Also, according to Donaldson,³ under the several settlement and occupancy laws, a man could eventually legally acquire 1,120 acres of the Public Domain. With comparative ease he could become a land-holder. Later, by exercising pre-emption rights an individual could secure choice land at extremely low rates; and even later he could secure a quarter-section of the best agricultural land for practically nothing but occupation and tillage. Thus it is that men have continually been po-

¹ Cf. Turner, "Colonization of the West," *op. cit.*, p. 303.

² Sato, *op. cit.*, 146.

³ *Op. cit.*, p. 411.

tential land-holders in the new country even though it may be shown that in large numbers they refused to leave industrial centers to improve these opportunities preferring, rather, industrial life and city occupations. Land office reports indicate the extent to which men have availed themselves of these opportunities. Economic stratification and the creation of class distinctions do not show themselves so much among those who possess or can possess, as among men a part of whom possess while the others do not and apparently cannot, as may be seen to-day in our city populations. It is significant that Kentucky in 1821 and Ohio in 1828 were the leaders in abolishing the system of imprisonment for debt.¹ Occupations at the different frontier stages of hunting, ranching and farming have contributed to conditions of equality. Rural pursuits have offered fertile ground for the growth of democratic ideals of equality, both by reason of the occupation itself and because of conditions of life. At least until comparatively recently, if not even now, the fundamental and absorbing interest has been related to the soil. Many of the great political democratic movements of the nineteenth century struck deep root in the agricultural population of the West. Whether the man in question is owner of the farm or "farm-hand" his occupation encourages rather than discourages notions of equality much as did the old apprenticeship system for master and apprentice as compared with the modern factory system. But not only on the farm but throughout the new country social and economic status has been determined very little by occupations.²

¹ Cf. McMaster, *The Acquisition of Political, Social and Industrial Rights of Man in America*, p. 66.

² In this connection it should be observed, however, that in those states in which slavery was common, the processes making for equality and democracy worked with much less freedom.

Though western settlement has not been exclusively agricultural, still interests have been more nearly related to rural than industrial interests such as obtain, for instance, in New England cities. For this reason, western cities, at least until comparatively recently, have received their primary stimulus from their surrounding territory. Town life, as well as rural life, has been closely identified with agricultural interests and those interests intimately related to the opening of a new country and to its business, trade and industry.

The democracy of land-holding and ownership up to 1880, according to census returns, was also encouraging to ideas of equality. At this date, 7,952 farms of three acres and over out of every 10,000 in the north central states were cultivated by their owners and 8,601 in the western states.¹ The opportunity for land-holding on the frontier is apparent in these figures. Thus, by placing within reach of every head of a family the possession of a farm, the West has had no little influence in promoting ideas of equality and democracy. No better proof of this can be found than in the strength of the population movement itself, induced fundamentally by these opportunities.

The opportunities for taking land, however, were not the only ones conducive to economic independence. Business and trade in all directions were alluring and offered unrivaled opportunities for gain. From the first, fortunes grew apace. The transportation of a growing population and produce gave unusual opportunities for the expression of individual initiative and enterprise. Abundant stores of raw material had but to be tapped to yield large returns for a minimum expenditure of labor. Speculation in land paved the way both to large fortunes and to the ruin of many. Land companies flourished. Business optimism, if

¹ U. S. Census, 1880, vol. iii, p. xiii.

financial history be followed, clearly held full sway. Every one was busy. A leisure class was not to be found for many years. As one writer has said, the people of Illinois were so busy making money that the attention which should have been paid to politics and matters of broad social concern was forgotten.¹ Now this element of economic struggle, while putting a strain on the individual through excessive stimulation, was essentially democratic in character. Both De Tocqueville and Bryce have emphasized the indissoluble connection of individualism and democracy in American history.²

Social Status.

The effect of economic status in relation to western democracy, however, appears in the social realm; or rather, it is through social relationships that it works itself out. This is apparent in the simple standards of living, the simple amusements, the comparatively plain if not bare home-life, the simple facilities for religious worship, schooling, social life and business; it appears in the comparatively undeveloped status of culture as it is known in older centers, in dress, in deportment and in all those things which make up our social existence. This is what marked early periods and successive frontiers. And all of this encourages rather than discourages democratic idealism. With business their primary interest and surplus wealth scarce, men had small use for tail coats and top hats even if they were to be obtained. Far from centers of fashion women had small opportunity to indulge in more than the simplest rivalry. The marking out of social distinctions came as a secondary stage in our western social life and this was due, not only to

¹ Gerhard, *Illinois as It Is* (1857), p. 68.

² Cf. *Democracy in America*; and *The American Commonwealth*.

the fact that wealth increased rapidly in the hands of some citizens but because it became possible gradually to use this wealth to create social distinctions. One who has spent his life in small western communities appreciates this not only from hearsay but from actual experience.¹

With the westward movement at bottom an economic phenomenon, its social effects have been tremendous. Population kept in a state of constant movement in an effort to appropriate territory larger than it could fill; men drifting about from place to place; and a restlessness begotten of an intense desire to profit through every opportunity,—all this prevented institutions from crystallizing; kept social lines in flux; opened up the channels of social intercourse and kept them open, thus minimizing class distinctions; placed the emphasis on personal worth and efficiency; encouraged simplicity of living; and altogether put a premium on and strongly induced feelings, ideals and ideas of social equality and democracy. These social phenomena are in strong contrast with those in more settled parts, particularly on the seaboard, where property and possessors are more clearly identified, where family plays a more important role in community life and altogether where social lines and social institutions are more fixed.

Of all these factors tending to keep social life in solution, as it were, the population movement itself, as described in the first chapter, is fundamental. This movement early developed a veritable maze of cross-routes of travel in addition to the preponderating westward trend. Pennsylvania Quakers and Dutch mingled with New Englanders,

¹ Charles M. Harger, in a series of sketches on "The West at Home, 1. In the Country, 2. In the Town, 3. The Western Spirit," *The Outlook*, May 4th, 11th and 18th, 1907, vol. 86, gives an interesting picture of western life.

Virginians and Kentuckians in Ohio; Kentuckians and natives of Tennessee mingled with New Yorkers in Illinois; men from all the states rubbed shoulders on the Iowa plains and later the flood of foreign immigrants permeated in all directions. Sectional ideas thus became subjected to a wearing process essentially democratic in character. Congregationalism and Presbyterianism embraced each other in Ohio.¹ The "compromise system" was the result of a contest between the township plan and the county plan of government coming from the North and South, respectively, to be modified in Ohio, Illinois and other western states.² "The early laws of the territory and the state [Iowa] bear testimony to the mixed character of the population," says Macy.³

The rubbing process of man on man and idea on idea was essentially one making for democracy. It was a toning down process rather than an operation encouraging differentiation, though from another point of view the West has distinctly prompted differentiation. As the corners of bricks are first to give way in a brick-testing machine so outstanding peculiarities were subjected to a wearing process peculiarly democratic though other characteristics developed. This also bred an ability to see resemblances as well as to perceive differences. Consequently, the result in this respect has been healthful in-so-far as it breeds a stronger sense of social solidarity. As Professor Turner says of the New Englander: "Even he who was shut out

¹ Walker, *A History of the Congregational Church in the United States*, p. 370.

² Andrews, *Washington County and the Early Settlement of Ohio*, Centennial Address, 1876, p. 33; also Herriott, *The Transfusion of Political Ideas and Institutions in Iowa*, p. 48.

³ "Institutional Beginnings in a Western State," [Iowa], *Johns Hopkins University Studies in Historical and Political Science*, 1884, vol. ii, no. vii, p. 30.

from the frontier by the middle region, tarrying in New York or Pennsylvania on his westward march, lost the acuteness of his sectionalism on the way.”¹

This movement of population, keeping social institutions in flux, has had at least two phases. The first may be found in those conditions on the actual frontier calling for modifications of institutions; the second, in the constant impinging of institutions and ideas one on another as in Ohio, Indiana, Illinois and Iowa, particularly those states more directly in the way of converging population streams where many varying elements mixed. In the first case, the pioneers had to adapt themselves to a new environment, a simplifying process, as good accounts of the frontier will indicate. Men were dependent on each other by reason of their comparatively small numbers. After the earliest periods and when settlement of western lands had set in strongly, much of it was done on the co-operative basis by men in large groups. As if by magic communities grew up whose members in many cases came from the same communities farther East. The Iowa land co-operative societies are perhaps as good examples as we have of this. Howe, writing of the early Ohio settlers, remarks: “What little aristocratic feeling anyone might have brought with him was soon quelled for we soon found ourselves equally dependent on one another.”² Frontier life has always been conducive to democracy. It can be seen to-day in western Nebraska, Wyoming and other western states, although the vicissitudes of life are not so pressing nor isolation so marked as at earlier periods.

Coincidentally with this fostering of equality and democratic ideas on the frontier, operated those influences eman-

¹ “Significance of the Frontier in American History,” *op. cit.*, p. 220.

² *Historical Collections of Ohio* (1847), p. 152.

ating from the conflict between different streams of men and ideas in more settled regions where population was more dense. A restlessness and a readiness to change from place to place has characterized men of the frontier states long after they have passed beyond the first frontier stages. The influence of the frontier, in breaking down social barriers, was but strengthened in communities to the rear where democratic ideas continued to persist.

The chief significance of the mixing of people and the crossing of travel in the West, however, lies in the fact that it has delayed the possibility of social stratification. Social structures could not become fixed under such conditions. Even democracy, itself, as a political institution, from early Kentucky times down to the Populist movements, has had a varied career. Religious institutions, as, for instance, Congregationalism and Presbyterianism, became modified and Methodism found peculiar strength in the West as a "peoples' church." Western educational policies have shown a tendency to break from traditional systems. Western state universities have been quick to popularize entrance requirements, breaking away from classical restrictions. Educational methods have been readily accommodated to the needs of the common people. As has been noted already, the county and town forms of government came into conflict and both were modified. All of this has been democratic in its essence. Whatever prevents an institution from conforming to changed conditions at the behest of those upon whom it operates may be considered anti-democratic in nature. On the other hand, whatever influences conduce to adaptation, permit local initiative from below or without and provide for individual or popular self-expression, make for democracy. "The peoples' will" has been a popular political "slogan" in the West.

American migratory movements undoubtedly have also

had signal influences upon family life. The breaking-down of family connections by constant removals from the parent stock and then later unrestricted alliances by succeeding generations has made the perpetuation of lineage difficult. And the stress on personal worth has made the break all the more accentuated. The new country has made it difficult for families to secure such social differentiation as may be observed in older communities.

The processes making for democracy and ideas of equality in the new country may, perhaps, best be seen from the standpoint of the individual. It is because of this democratization of the individual that institutions—political, religious, educational, family—have been democratized. Democratic changes in them have been simple outworkings of tendencies arising in the individual. These influences have been constant. They operated previous to the Revolution.¹ Influences making for democracy obtained long before the trans-Alleghany movement set in. The latter simply continued the processes at work before the Revolution and accentuated them.

On the raw frontier the environment is too strong for the man. He must quickly adapt himself to it.² So the early pioneer donned bearskins and Indian attire, lived much like the natives and fought them with their own tactics. His tastes were simple. He met his fellows on an equality not only in the early period but whenever, in spite of sectional interests, the struggle tended to bring men together for purposes of co-operation. This was distinctly democratic. But individualism was characteristic even in this co-operation and thus was democracy further stimulated. Class distinctions were broken down. De

¹ Cf. Osgood, "England and the Colonies," *op. cit.*

² Cf. Turner, "Significance of Frontier," *op. cit.*, p. 201.

Greef points out the existence of social, economic and political frontiers, holding that "the abolition of frontiers among classes and societies" is one of the essential aspects of equality.¹ Using the word, then, in its two applications, we may say "the western frontier has operated to annihilate social frontiers" by keeping social organization in flux and by throwing down restrictions and prohibitions. Professor McLaughlin, commenting on a paper, "The West as a Field for Historical Study," read by Professor Turner before the American Historical Association in New York, 1896, said: "We find, then, the essential characteristics of American democracy so called, expressing themselves in politics, in political institutions, in social life, were characteristics of the frontier, not essentially the characteristics of the government of the whole, by the whole."² These characteristics began to show themselves among the Kentucky "long-knives," with pioneers such as Daniel Boone and those who moved in to occupy the Fire Lands; among the men of the land-claim associations in Iowa; with the ranchmen of the plains, and the miners of California. These successive frontiers have been a continuous influence in American history.³

The trend toward democratic idealism may be seen in the states as they successively developed. Of the Northwest, Bradford remarked in 1846 that there was a general

¹ "Introduction to Sociology," *American Journal of Sociology*, Sept., 1903, vol. 9, p. 250.

² *Annual Report*, 1896, vol. i, p. 289.

³ The term "frontier" is not only applicable to outer fringes of sporadic settlement, but also to social life far removed from those conditions of hardship usually associated with an absolutely new country. The effects of the frontier persist long after the first pioneer line has moved on. In this sense pioneer influences in America have affected our local and national life long after the first settlers with their canvas-topped wagons disappeared over the western horizon.

and equal association of all persons, without regard to character, condition or circumstances, making society one smooth and perfect level.¹ But the writer pointed out that this was not always altogether agreeable, particularly to the "ladies." The latter often tried to remedy this and sought by various means to erect social barriers and distinctions. Occasionally, this brought about oddly assorted "select" circles, which to the outsider often appeared more whimsical and ridiculous than serious and "respectable." This is a natural result of conditions in a new country. It grated on the nerves of the independent pioneer to have a slave-holding guest at a "house-raising" direct the work of his slaves while he sat by and looked on.² It was not long before the cry against aristocracy was raised in early Kentucky however few indications of it there were.³ The men who through foresight and tireless effort had gathered unto themselves well-ordered properties, were regarded suspiciously and apparently with some degree of hostility. This indicates the trend of thought. The rigorous discipline to which the frontier subjects the man serves to eliminate distinctions save those based on personal worth. In reading the accounts of pioneer life, noting the simple life of growing communities, the opposition to marks of class distinction, the conduct of court proceedings as well as legislative assemblies, the insistence upon personal rights, independence and other marks of individualism, one secures a vivid impression of the democratic spirit in early Kentucky and other western states. "The ideal of the west was its emphasis upon the worth and possibilities of the

¹ *Notes on the Northwest* (1846), p. 140.

² Turner, "Colonization of the West," *op. cit.*, p. 316.

³ Cf. Butler, *A History of the Commonwealth of Kentucky* (1834), p. 294.

common man, its belief in the right of every man to rise to the full measure of his own nature under conditions of social mobility," says Turner.¹

Political movements in Ohio up to 1850 indicate how strong the influence of the new country was. By reason of the contest with nature, and because of isolation, simple life, few marks of social superiority, simple amusements and common work, the resources of the individual were developed along with a community of feeling.² This bred democracy. Flint, writing from Ohio in 1818, remarked that there were no "servants"; there were "hired hands."³ No distinctions of family, or office, were then made; all men were on a level, all were exposed to the same dangers and privations, all were dependent on one another for aid and assistance. The writer, having been raised in the West, recalls the resentment of western communities to single families or groups of families who held themselves superior to the rest or who formed exclusive cliques. What would be considered natural in New England or the South in the recognition of social differences has had but scanty appreciation in the West. Increasing wealth, however, is bringing changes in this respect. It may probably be said with safety that the majority of western families of social prominence to-day started "poor" and have risen from the ranks of the "common people." The power of economic conditions in encouraging the democratic idea has been pointed out. Nearly all the settlers of the early Western Reserve were debtors to eastern creditors.⁴ Early legis-

¹ *Rise of the New West*, pp. 68-69.

² Chaddock, "Ohio Before 1850," *Columbia University Studies*, vol. xxxi, pp. 47-48.

³ "Letters from America," 1818-1820, in Thwaites, *Early Western Travels*, vol. ix, p. 122.

⁴ Rice, *Pioneers of the Western Reserve*, p. 100.

lation in Ohio favored debtors. Working with little capital the westerner has favored the debtor class. "At each stage of its advance the West has favored an extension of the currency,"¹ an idea closely associated with other democratic ideas and political democratic movements.

The democracy and individualism of Ohio and Kentucky was again repeated in Indiana, Illinois and other states. The fundamental traits of the man of the interior were due to the free lands of the West, says Professor Turner. By drawing him on, by continually projecting him on to a frontier, constantly keeping the country behind in a state of unrest, and encouraging easy removal to places of most economic attraction, the free lands have kept men and their ideas in a state of flux. Birkbeck, writing from Indiana in 1817, said: "The social compact here is not the confederacy of the few to reduce the many to its subjection; but it is indeed, and in truth among these simple republicans, a combination of talents, moral and physical, by which the good of all is promoted in perfect accordance with individual interests."² Truly a utopian state of affairs if actually so. One writer on early Indiana gives an amusing touch to the development of democratic ideas which we have been studying.³ He said, referring to conditions of about 1824: "Society here at present seems almost entirely free from the taint of aristocracy—the only premonitory symptoms of that disease, most prevalent generally in old settled communities, were manifested last week, when John I. Foster bought a new pair of silver plated spurs, and T. N.

¹ Turner, "The Problem of the West," *Atlantic Monthly*, Sept., 1896, vol. 78, p. 289.

² *Notes on a Journey in America from the Coast of Virginia to the Territory of Illinois* (1818), p. 114.

³ Cox, *Recollections of the Early Settlement of the Wabash Valley*, p. 17.

Catterlin was seen walking up street with a pair of curiously embroidered gloves on his hands." The lone cowboy even to-day resents a "hard hat." Not long since he would have "shot it up." Bryce, writing in 1888, remarked that even at that late date one could discover in the West a resentment to any outward marks of superiority.¹

Advice given by Mr. Peck to those contemplating removal into the West so admirably applies to the discussion in hand that it is given herewith. He said, speaking of the settler:

No matter how poor he may be, or how much a stranger; if he makes no apologies, does not show a niggardly spirit by contending about trifles; and especially if he does not begin to dole out complaints about the country and the manners of the people, and tell them of the difference and superiority of these things in the place whence he came, he will be received with blunt, unaffected hospitality. But if a man begin by affecting superior intelligence and virtue, and catechising the people for their habits of rough simplicity, he may expect to be marked, shunned, and ridiculed with some term of reproach.²

This with Hittels' commentary on early California days gives a very good idea of the democratic idealism of the times.

Every man, finding every other man compelled to labor found himself the equal of every other man and as the labor required was physical instead of mental, as usual, superiority of head-workers over hand-workers disappeared entirely. . . . Men who had been governors and legislators and judges in

¹ *Op. cit.*, p. 574.

² From the *Illinois Gazetteer*. Quoted by Curtis, *Western Portraiture*, p. 204.

the old states worked by the side of outlaws and convicts; scholars and students by the side of men who could not read or write; those who had been masters by the side of those who had been slaves; old social distinctions were obliterated; every body did business on his own account, and not one man in ten was the employee and much less the servant of another.¹

Nor are these conditions dissimilar from those to-day on more recent frontiers or in Iowa about which Shambaugh writes: "The conditions of life there were such as to make men plain, common, unpretentious—genuine. The frontier fostered the sympathetic attitude. It made men really democratic and in matters political led to the three-fold ideal of equality which constitutes the essence of American democracy in the nineteenth century namely: Equality before the Law, Equality in the Law, Equality in making the Law."² The political history of Iowa bears out this statement. These ideals do not deny that there are differences in worth among men nor do they deny to the individual his self-realization. These ideals, on the other hand, laid stress on worth in intellect, character, ability and achievement rather than upon external differences. The ideal is that of worth-differences and social distinctions based on deep-seated and fundamental rather than superficial attributes.³ Such has been the influence of what we may call the West. "Never before, within historic times," says Dr. Moses, "had there been offered to man such an ample field of escape from the conventional forms of established society, by which individuals are kept bound in their places of inferiority and superiority. In the unsettled regions of America there was the widest freedom from the restraints

¹ *History of California*, vol. 3, p. 171.

² *Constitutions of Iowa*, pp. 28-29.

³ Ross, *Social Psychology*, p. 100.

of civilization. There was ample room for millions to take essentially similar places. Under these circumstances, men necessarily and inevitably drifted toward the enjoyment of common rights and privileges, and the law in the course of time recognized and confirmed the fact."¹

By the foregoing citations it will be seen that the tenor of thought and action, individual and social, throughout the West has been distinctly democratic. This portion of the United States, through the conditions obtaining there, not only helped perpetuate the democratic ideals of the Revolution, but in addition served to extend and develop these notions. We should not forget, either, interior frontier populations of Maine, New Hampshire, Vermont, North Carolina, New York and other sections, for in them was also developing democratic idealism, itself influenced by the ideals of democratic rule springing up in the Mississippi Valley. Many a responsive chord was struck in eastern sections by western movements.² Marks of social distinctions and class consciousness, at least for the time, disappeared in the new country and did not re-appear to any great extent until society became firmly established. By reason of the constant shifting of population; because of the wearing processes resulting from this; because the new country itself and its natural influences plus the economic status of those participating in its life; because population moved much faster than social means of control could be established, those democratic ideals which found expression in political life were vigorously nourished.

Another factor contributing to the development of these democratic ideals, undoubtedly, has been that of foreign immigration. For the foreign immigrant to be able to par-

¹ *Op. cit.*, pp. 1-2.

² *Cf.* Turner, "Colonization of the West," *op. cit.*, p. 305.

ticipate in the distribution of the Public Domain under such encouraging conditions was a provision above everything democratic. While at times the concentration of foreigners in communities and districts has been thought to threaten American social solidarity, by far the greater influence of these people of Teutonic and Anglo-Saxon stock has been to encourage its extension if not through themselves directly, at least through their children. The foreigner in the West, however, has shown himself a willing and eager disciple of the democratic ideal. The competition of these men with the native-born has been a wholesome and an appreciable factor in American democracy. Mutual give-and-take and mutual imitation, particularly by the newcomers, has effectively fostered toleration. The rapidity with which each successive generation of foreign stock has been Americanized has been most powerful in its democratic effect. Intermarriage, furthermore, between native and foreign stock, has been wholesome for the perpetuation of democratic ideals.¹

An important feature of all this to which we have just given our attention is the importance in the West attached to personal worth and fitness. The question has not been: "Who are you; what is your social standing; what are you worth?" but simply, "What can you do?" Personal worth has, therefore, been measured in terms of ability. In this sense the West has rather encouraged an atomic social organization. Society, generally speaking, has been composed of independent units, persons and communities. Furthermore, the struggle on the part of individuals for social recognition, though democratic, has not been fought out on a discouraging, narrow margin of existence, but

¹ For a good discussion of Foreign Population and Democracy, cf. Walker, *The Mississippi Valley*, ch. xix.

quite on the contrary, on a field yielding the most encouraging rewards. Society has therefore given its approval, not only to personal worth and individual fitness, but has decidedly encouraged the individual to lend every effort to prove not only ordinary fitness but extraordinary ability. Besides, the rewards have been stimulating in themselves. In other words, for the past four generations since the West came to have a part in national life, the great democratic idea has laid stress on the rights and interests of the individual. In the sense that the West has made economic and social equality a potentiality of all, the influence for democracy has been distinctly evident. On the other hand, it is this "worship" of the individual which produces peculiar problems. Society may thus be broken up into a multitude of small units with centrifugal rather than with those centripetal tendencies which breed social or group solidarity. Coöperation is thus made the more difficult and, particularly, when it interferes with private interests. May not a complete appreciation of the real influence of the American frontier in social life help us to construct with even greater exactness our pictures of historic periods of social change under similar circumstances?

CHAPTER V

DEMOCRACY IN WESTERN POLITICAL LIFE

IN politics one may easily note the changes which have occurred and the conditions which have more or less continually obtained in western economic and social life. Here we again perceive the influences which the West has exerted. There is no question as to the powerful effects of the frontier and the new country in social organization; therefore we expect reflections of these influences in politics.

"It was certain," says Professor Turner, "that this society, where equality and individualism flourished, where assertive democracy was supreme, where impatience with the old order of things was a ruling passion, would demand control of the government, would resent the rule of the trained statesman and official classes, and would fight nominations by congressional caucus and the continuance of presidential dynasties. Besides its susceptibility to changes, the West had generated from its Indian fighting, forest-felling and expansion a belligerency and a largeness of outlook with regard to the nation's territorial destiny."¹ It could scarcely have been otherwise under the stimulus of western development.

Early indications of this assertive, democratic, independent and aggressive spirit were the popular movements in Kentucky leading up to the Resolutions of 1798, a protest against the acts of a seaboard government manifestly out of touch and sympathy with its frontier population. The

¹ "Colonization of the West," *op. cit.*, p. 325.

organization of the Jacobin clubs with their democratic ideas—a movement which in time became an important factor in Kentucky politics—did not improve the situation either, through their opposition to supposed encroachments of federal authority. Examine the “Resolutions” and one finds sections: declaring against too much federal control, and asserting the principle that the “residuary mass of right” was reserved to each state’s own self-government; resting the residuum of power in each state; insisting that “the powers not delegated to the United States by the Constitution, nor prohibited by it to the States are reserved to states respectively, or to the people;”¹ asserting free right of speech without federal interposition; voicing opposition to an increase of executive powers particularly in connection with the rights of individuals to a hearing before a tribunal of justice; contesting that the federal Congress was overstepping its prerogatives in levying and collecting taxes, imposts, duties and excises. This indicates the strong anti-federal and vigorous local democratic sentiments in the West at that time.²

Somewhat similar in nature to this disturbance in Kentucky was one in Ohio in the controversy between the executive and the territorial legislature in the location of the seat of justice in Adams County following the dissensions of 1798. The governor of the territory, acting through appointed commissioners, fixed it at Adamsville while Nathaniel Massie and his southern associates wanted it at Manchester. When the governor reprimanded the magistrates for holding court where they pleased, those who

¹ Cf. *U. S. Constitution*, Amendments, art. x.

² Cf. *Kentucky Resolutions*, 1798. Note: For a good account of the social and political conditions leading up to the Resolutions in which the democratic tendencies directly preceding the Resolutions are given, cf. Warfield, *The Kentucky Resolutions of 1798*, especially ch. ii.

claimed that the people had a voice in local affairs instead of being controlled by a governor who, deriving his powers from external authorities, was responsible to no one in the territory and could thus be independent of local control, organized a vigorous campaign of opposition.¹ So the fight dragged on. The democratic political temper refused to concede anything but local control. This finally worked out in the fight for statehood. The territorial government under St. Clair was unpopular. The advocates of statehood did not take kindly to the external control to which they were subjected. The paternalistic government of St. Clair was not pleasing to the early Ohioans. The people felt that they had an inalienable right to self-government.² The Federalists were worsted in the contest and the Jeffersonian party won on the basis that the territorial inhabitants should govern themselves.³ Later territorial and statehood struggles at successive periods indicate further how notions of local independence and self-control have dominated in the West. Says McMaster: "East of the Alleghanies long-established precedents, time-honored usages, the presence of a ruling class, the thousand hindrances which beset every reform, checked the spread of the new faith" [Democracy]. "West of the Alleghanies no such difficulties were met."⁴

The reaction to the strongly federal and central government tendencies culminating in the adoption of the Constitution, found expression in Jeffersonianism. Its most marked characteristic was a deep dislike of anything sug-

¹ Cf. Chaddock, *op. cit.*, pp. 50-51.

² Albach, *Annals of the West* (1857), p. 763.

³ For a statement of these Ohio struggles see Chaddock, *op. cit.*, ch. iii.

⁴ *A History of the People of the United States*, vol. iii, p. 151 *et seq.*

gestive of monarchy, hereditary aristocracy, or strongly centralized government.¹ It represented, then, somewhat of a revival of the earlier political theories and principles which apparently for a time had been pushed back by a wave of conservatism. Its essence was a confidence in the self-governing capacity of the people.

Jeffersonian republicanism, however, took more definite form in the movement toward greater democracy in Jacksonianism. This is the movement which assisted in breaking down the power of the landed aristocracy, in bringing down the barriers of exclusiveness, and hastened the day of popular government.² There were two forces back of this movement at least; namely, the influence of the frontier in the West and South, and the growth of an industrial class in the cities.³ The first influence was exceedingly marked, to what degree may be seen in the next few pages. How much the characteristics of this movement toward political democracy found their expression in the West is a strong commentary on the democratic ideals and notions permeating the western districts. Here individualism was flourishing, economic opportunity was alluring, land was comparatively free to all, and the social fabric had not become so closely woven as to render free play of individual initiative and democratic expression difficult. Professor Merriam, characterizing these political movements, says: "The electorate was largely increased by the abolition of property qualifications. Religious and property requirements for office-holding were abandoned, terms of office were shortened, the principle of "rotation" in office was accepted, provision was made for popular election of officers.

¹ Merriam, *op. cit.*, pp. 143-144, 163.

² *Ibid.*, p. 176.

³ *Ibid.*, pp. 176-177.

the legislative department of government became an object of suspicion and the executive was correspondingly advanced in favor.”¹ This last was caused largely by the desire of the people to rid themselves of a political aristocracy which had been growing both within and without legislative halls. Continuing, the writer just cited says: “These numerous and important changes marked the rise of a new democracy, widely different from that of the Revolutionary times, or the early days of the Republic. The new type of government was as much an advance on that of the Revolutionary period, as that of those days upon the contemporary government in England.”²

Democracy, as it became associated with Jackson, was a development. The theory of the Revolution was in direct line with English precedent and philosophy. The political developments in the new West were in logical order and owed much to those of the preceding century. But they struck out on new lines. Quoting Merriam again: “The destructive democracy theory of the day was old, but the constructive theory as marked out in the state governments was the product of new conditions.”³ Here we have it in a nut-shell. The democracy which is so intimately associated with the addition of new commonwealths to the original union was not an entirely new product, but a newly invigorated political philosophy. It was developed out of the past and strongly moulded by the influence of new conditions. A comparative study shows that many of the progressive democratic modifications first took form in the states west of the Alleghenies and later appeared on the sea-board.

¹ Merriam, *op. cit.*, pp. 199-200.

² *Ibid.*, p. 200.

³ *Ibid.*, p. 94.

Class rule was the distinguishing feature of American political organization, even during Jefferson's days, previous to the advent of the new democratic ideas. United States constitutional history began with government of the masses by the classes. "The common people were not regarded as having any direct part in the government at all."¹ Opposition to this idea, coincident to the new democratic movement, came out of the West. Naturally so, too, when as opposed to the growth of "vested interests" in the eastern states where society was already slipping into grooves, the country was open to all; where economic opportunity, potentially at least, was the same everywhere, and where none need call another "master." Under such circumstances there was small likelihood of independent citizens regarding any class or "vested interest" as essentially superior. The new western states, as they established their governments, showed a strong tendency to break away from class control. Monette, writing in 1848 about Tennessee politics, observed:

The new constitution (1776) in its general features, was more Democratic than that of the parent state, and imposed few restraints not absolutely necessary for good government. In its provisions it illustrates the principles established by all subsequent constitutions, that the new states as well as the older which have remodelled their constitutions, exhibit a uniform tendency in the public mind to render government more and more the instrument of popular will.²

The Jacksonian movement was largely a product of circumstances. Democratic theories were not new but they

¹ Ford, *The Rise and Growth of American Politics*, p. 59.

² *History of the Discovery and Settlement of the Valley of the Mississippi*, vol. ii, p. 280.

needed favorable conditions in which to develop. "Confidence in the people" was a Jeffersonian principle but it was more theory than reality. Jefferson was a representative of democratic ideals yet under him "there still remained a strictly limited electorate, property qualifications, long terms of office, and little participation of the people in the election of their officers. The government was still in the hands of free holders and the gentry."¹ Influences had not been sufficiently powerful or at work long enough to cause a very severe break with the past. It required a new order, a new set of conditions, a new release and re-direction of energy to bring about results obtained in democratic movements of the first half of the last century. This is not strange. Social ideas ebb and flow. Following the Revolution a marked reaction from democratic tendencies set in. The Constitution was decidedly conservative and political thought became reactionary. This reactionary feeling called for a strong central government, showed a pronounced dislike of the French Revolution, especially in its later phases and betrayed a liking for a certain amount of form and ceremony.² It remained for new conditions and new stimuli to provoke a reaction against this reaction and to produce Jacksonianism.

In the original commonwealths exercise of the franchise right was practically based on things rather than persons. Strict property qualifications really made the voting class a land-holding class. The new trans-Allegheny commonwealths, however, with the exception of Tennessee, put no property restrictions on the exercise of franchise rights. Later, sea-board states began to lessen their restrictions. Such a liberal movement in the West was to have

¹ Merriam, *op. cit.*, pp. 174-175.

² *Ibid.*, p. 141.

been expected. When land was practically free to everyone the citizen of the new country, cut off from political traditions, or at least tending to free himself from them, could hardly have placed his suffrage rights on a property basis.¹ The liberal tendencies respecting franchise rights were a result of progressive developments. The eastern states required time to throw over an institution which the western states dispensed with from the very first. The idea that a citizen without property could not be given or trusted with franchise rights died out rapidly with the development of the states, though his opportunity to become a landholder must have stimulated even this movement. The struggle for a more liberal franchise yielded its first-fruits in the West because conditions were favorable. The idea of an electorate limited to a landed class was essentially distasteful if not illogical when land was open to all or each individual was a potential free-holder.

The sluffing-off of property qualifications for the electorate was accompanied at this early period by a similar tendency in the case of office holders. Religious qualifications disappeared earlier than those of property. The former could not be retained readily with conditions obtaining which seemed to encourage the multiplication of sects. Property qualifications for representatives, senators and governors—all were thrown aside by the new western states. In the case of governors none of the western states made any property qualifications except Louisiana which required \$5,000 in realty; Mississippi, 600 acres or \$2,000 in realty; and Tennessee, 500 acres, freehold. In those states the landed aristocracy idea

¹ This general movement toward an extension of the franchise irrespective of property rights may be seen better in the tables included by Francis Newton Thorpe in his two admirable volumes, *A Constitutional History of the American People* (1848).

still persisted.¹ Social and economic equality makes for political equality. He who found himself in a new country and among hundreds like himself, perhaps, not possessed of land or property but soon able to be economically independent and a possessor of land, became loath to measure fitness to govern on any other basis than that of personal efficiency, though it must be said, this quality has been much too often noticeably and painfully lacking. Thus it was that not only representatives and senators but also governors were shorn of all appearance of aristocracy. Special privilege or class distinctions or exclusiveness could not be tolerated. Immediately they became matters of suspicion and distrust.² On the other hand, he who magnified the people and dignified them was in turn magnified and confided in. Sovereignty of the people was the idea uppermost in the mind of the westerner. He thoroughly believed in the policy of giving the direction of public affairs into the hands of the mass of the people just as far as possible.³ This not only appeared in Jackson's time but may be seen easily to-day in those districts in which the frontier influences still continue. The East looks to the West for radicalism and opposition against special privilege or class control. The comparatively recent agitation and experimentation with the direct primary system and other improvements in our electoral machinery and policies have found special favor in the West.⁴ The democratic idea in politics has been that of opening the way to any political position irrespective of wealth and social

¹ Thorpe, *ibid.*, vol. i, pp. 82-83; vol. ii, pp. 423-424.

² It should be remembered that very often laws fall into disuse and remain so sometimes for a considerable period before they are repealed or otherwise changed.

³ Merriam, *op. cit.*, p. 177.

⁴ Cf. Allen, "The Trend Toward a Pure Democracy," *Outlook*, Sept. 15th, 1906, vol. 84.

position. Political preferment tended to be settled in the newer country on the basis of personal vigor, individual initiative and capacity, though it has not always taken the direction of disinterested public service.

From a reduction of qualifications for office holding to a shortening of terms in office is but a step. The terms of elective offices were not so much affected as in the case of appointive offices, though the democratic idea had already been recognized in state constitutions by short terms and limitations on re-eligibility. Possibly three, if not more, factors were largely instrumental in shortening the terms, especially of appointive offices. These causes may be said to have been: first, the desire to pay for political service by appointment to public office; second, desire on the part of the people to avoid a more or less permanent office-holding class; and third, a desire on the part of the people to participate on broad lines in the benefits, pecuniary and otherwise, which such service presented. Exploitation of office is not so far different from exploitation of natural resources as one might at first think.

The "spoils system," with its feudalistic ear-marks, was a creature of party machinery, but no section of the country gave its approval more than newer parts of the West. It was directly in line with the movement to open up political opportunities by eliminating property qualifications both for electors and offices. It was also, during the Jacksonian period, part of a movement strengthening the executive against legislative bodies which had for a time tended to an aristocratic class consciousness. Public feeling tended away from aristocracy in any of its forms. Rapid rotation in office, by which many enjoyed the advantages of office holding was accepted as right and in accord with conditions throughout the country. Why should he who had unlimited opportunities for advancement and gain in other

phases of life be deprived of office holding? Rotation thus became an accepted idea on the part of the people and political leaders made good use of this political capital placed at their disposal.

The popular election of officers was another feature of the democratic movement which was directing the electorate into larger participation in political affairs. Gradually the powers which had been vested in legislative bodies were taken away and people voted for their administrative and executive officers directly. The election of governors and senators by direct vote has been prominent in this movement. They thus in part became the direct representatives of the people. Minor officers, also, in many cases were made directly elective, such as clerks of court, sheriffs, and justices of the peace.¹ The people wished to have a more direct hand in their political life. The increasing habit of submitting state constitutions for popular ratification is another straw to indicate which way the wind was blowing. By 1830 this practice had become frequent and since 1850 only two states have adopted constitutions without a popular vote. From 1820 on, the referendum gained increasing favor, also, over adoption by representatives.²

Thus were those political democratic movements begun which later became known as the Jacksonian Democracy. Its characteristics were in large part expressions of conditions in the West which were affecting men and modifying institutions.

Closely connected with and a part of this movement of which Jackson was the accepted leader, was the opposition to the National Bank. This opposition reached its politi-

¹ Merriam, *op. cit.*, p. 197.

² Cf. Cleveland, *The Growth of Democracy in the United States* (1898), pp. 112-113.

cal climax in the elections of 1832 which returned Andrew Jackson to office and so disastrously routed Clay and the National Republicans. This contest centered around the question of re-chartering the bank. While it is true that pure politics and various economic interests played a most important part in this struggle, the fact that sectional interests came to the fore and that parties with federal and anti-federal sympathies were arrayed against each other in the National Republicans and the Democrats is most significant. MacDonald remarks: "The destruction of the bank was a natural consequence of the democratic revolution which brought Jackson to the presidency, rather than a sudden and unwarranted assault upon an institution whose propriety, constitutionality, and economic usefulness were generally admitted."¹ The political fight which focussed on the bank and about President Jackson's veto of the bill providing for its re-chartering drew out latent sentiments apparently waiting an opportunity for expression. These notions came strongest from the West and the South and took the form of questioning the constitutionality of the bank in the first place. Opposition then arose to its monopolistic characteristics as a national institution, to its interference with state banks, to its great success as a money-making proposition for its stockholders, to the holding of stock by foreigners who represented anti-democratic interests, and to the generally supposed anti-democratic character of a great central bank fostered by the central government. The bank was often at odds with local banks which in no way took kindly to the idea of external interference. All of these notions were particularly prevalent in the West where the New Democracy had its stronghold.

Jackson's veto of the re-chartering bill expressed the

¹ *Jacksonian Democracy*, 1829-1837, p. 118.

strength of these ideas. Their strength consisted in appeals of Americans against foreign intervention in such affairs as stock-holding in the bank; in arraying the poor against the rich so closely identified with the bank and the East; in sectional interest—the West *versus* the East; in democracy *versus* privilege and special privilege at that. These arguments appealed to a clientele which followed Jackson gladly. His constitutional and economic arguments may be subject to criticism, yet the message accompanying his veto of the Bank Bill returned to the Senate on July 10, 1832, with its attack on the bank charter as a monopoly granting special privileges to a favored few, consequently, in direct opposition to democratic principles and therefore dangerous to government and country, struck a popular chord and elicited a great response unmistakable in the West and South. It was here that states' rights, individual freedom, local control and popular sovereignty were given full approval.¹ Democratic notions contested against these supposed monopolistic tendencies of the bank. To associate the bank with tendencies encouraging differences between those who had and those who had not, between rich and poor, between favored and the unfavored, served but to bring out the bitterest opposition and denunciation.² While the bank made enemies by exercising control over local banks as to their note issues, and conflicts had been had with various states in the latter's attempts to tax branches of the bank, nevertheless, says Professor Dewey:

There was still a deeper agency at work which led to

¹ Catterall, "The Second Bank of the United States," *Decennial Publications of the University of Chicago*, Second Series, vol. ii, pp. 239-240.

² *Ibid.*, p. 167.

the final overthrow of the bank, the revival of Jeffersonian democracy. . . . Monopolies must be put down and it was held high time for a return to the simpler principles of the fathers of political democracy. . . . This phase of public opinion needs to be reckoned with, in order to account for the rapid downfall of the bank.¹

We have already indicated from what sections came this revival of democratic principles to which Professor Dewey refers.²

Strong western opposition to the National Bank has more significance, however, as far as democratic movements are concerned, when, in this connection the fact is remembered that popularity of local banks and local banking preceded and followed the fight on the bank. The first National Bank had already gone out of existence in 1811 when state banks sprang up in great numbers and in the South and West, particularly, ran the gamut of currency inflation. When the second bank established in 1816 began to insist on state banks redeeming their notes in specie, and otherwise began to exercise a much-needed control over banking the West and South strongly opposed such policies and the bank became unpopular. Outside interference was distasteful in the newer states and Jackson but added to the kindling flames of opposition in his messages. So when the charter of the bank expired in 1836, and local initiative was freed and central control taken away the country, particularly the West, plunged into an orgy of experimentation until experience began to breed caution and encourage conservatism.

¹ *Financial History of the United States*, p. 199.

² For a very good statement concerning the Bank political controversy, cf. Horace White, *Money and Banking*, bk. ii, ch. iv-vii. *passim*.

The economic and social conditions obtaining in the West, as we have already pictured them, vitally influenced currency and banking. It was in the newer states, especially, where currency inflation, wild-cat banking, repudiation of debts, speculation and questionable banking methods were carried farthest—marks of an individualism without proper control clearly associated with a radical democracy. The rapid settlement of the country—an increase of population from 1800 to 1840 of over 200 per cent—involved tremendous changes. A vast territory was occupied in a few decades, a territory much larger than that of the thirteen original states. The great West was the direction toward which people set their faces. And here powerful economic and social influences were at work. It was in large part from out frontier conditions that many of the most noticeable financial operations flowed.¹ One need only contrast the East and West in their attitude toward national questions as also in economic and social questions to perceive the difference in ideals and thought. The East was Federalist and conservative, with an increasing tinge of aristocracy through increased wealth. It was the opposite in the West where rich men were few and standards of living were less differentiated; where economic opportunity put all on a potential equality; where energy and boldness were qualities on which a premium was placed; where life had its full quota of hardships; where men ranked according to ability; where social institutions were changing, and where individualism tended to take the place of conventionality.

¹ For an intensely suggestive statement of the economic and social conditions obtaining in the new country in relation to financial and currency movements. Cf. Wildman's *Money Inflation in the United States*.

In probably no state can the operation of the democratic ideal be better observed than in Iowa, and its history is very typical of much of the West. The early history of this state is marked by indications of independence, local initiative and efforts to secure local control. While its citizens have been nationalistic in sympathies they reserved to themselves from the earliest period much local control. They tended to mould their institutions and government to suit their own particular needs and held themselves free to adopt any adequate system. The land claim associations clearly showed this tendency. They were distinctly a western institution resulting directly from the system for the disposal of public lands. They were a combination of an economic, social and political order. Their primary object was the preservation of individual rights—significant in itself—and the democratization of land-holding.

To have a proper idea of the purpose of the claim association, an institution common in early Iowa, one must remember that the territory now within the state boundaries was public domain and consequently was not open to appropriation by settlers. The Act of 1807 provided for this but really was not enforced though some efforts were made in this direction. By 1838 the population counted about 22,000. Now these occupants of lands held no legal titles and were without the pale of constitutional government; so when in 1838 these lands which they occupied were proclaimed for sale by the government they were confronted with the necessity—for their own protection—of establishing some form of organization which would meet the situation.¹ They did not propose having lands which they had

¹ Cf. Shambaugh, *Constitution and Records of the Claim Association of Johnson County, Iowa*. Introduction, xi-xii. Published by the *State Historical Society of Iowa* (1894).

settled and improved go into the hands of others without a struggle. As a matter of fact, however, these organizations performed their functions quietly and disappeared when their purposes were realized.

These land leagues, clubs or claim associations—extra-political organizations in a sense—differed in minor details but were mainly of the same character, says Macy.¹ They were practical, co-operative unions formed for mutual help and protection. The territory had not been legally opened to settlement but settlers had built towns and had made extensive improvements; whence came the complaint, as at many other times and from other points, that because of tardy government action on the one hand and economic pressure and stimulus on the other a premium was placed on land-law avoidance. This was held sufficient argument against regulation. However, the question then was whether the new Iowa settlers would allow themselves to be deprived of their holdings by some outsider who, though avoiding the discomforts of early settlement, could bid in land at a higher figure and thus take over not only the land itself but also an “unearned increment.” The land claim association slipped in at this point in order that no parcel of land might be sold to anyone, save the socially recognized claimant, and then at the minimum price of \$1.25 per acre though it actually might be worth no more than \$1.00 per acre.² To facilitate matters claims were bidden in by an agent of the organization. The claim association encountered greater difficulties in the western part of the state where land came into the market without private sale, and settlers were confronted with difficulties not much unlike those of early Ken-

¹ “Institutional Beginnings in a Western State,” *op. cit.* For the organization and conduct of these associations, *cf.* pp. 11-12 (especially).

² *Ibid.*, pp. 13-14.

tuckians who found themselves deprived of their land by new-comers who had the protection of the law.

Thus the Iowa settlers protected themselves. But as a matter of fact, since the Act of 1807 forbidding settlements on lands ceded to the United States without authorization of law, had not been repealed, each act of the settlers in entering lands was illegal and every act of the claim associations in perpetuating the original entries by the illegal settlers was illegal. Curious enough, therefore, is one of the first acts of the territorial legislature in legalizing the sale of "lands owned by the government of the United States."¹ "How could a settler sell lands owned by the United States?" questions Macy.² Here was a direct conflict between the territorial and the national statutes. It was the same over-riding of national laws pertaining to the distribution of the Public Domain, however, to which can be traced many of the most scandalous proceedings in the occupation of the western territory. On the other hand, it is true that land laws at different periods have been manifestly inadequate to the needs of a new country and to the requirements of its settlers. Under the circumstances, it is not strange that there has been difficulty in strictly enforcing them.

Such was the temper of the people. Unwilling to accept much outside interference, they were quick to evolve any system of their own which placed in their own hands their welfare. This was not much different from the popular sovereignty agitations in Kentucky, or the New England town-meeting, even transplanted to the West, in which local thought secured expression. The land claim association

¹ *Laws of Wisconsin* (1836), p. 23. Quoted in case, *Hill vs. Smith*, *Morris Reports*, p. 72.

² *Op. cit.*, p. 15.

itself, as an institution, developed out of the exigencies, conditions and temper existing in the new country where land was the dominant feature. It was essentially a democratic institution.

The local autonomy idea, of which the land claim associations were partial expressions, may be discovered in other phases of Iowa's history. In its own territorial statutory law there is a painful discrepancy between that for which the law provided and actual practice.¹ One would suppose that when statutes set up by accredited legislators were promulgated they would be observed. It seems, however, that the people as a body really worried little about their special territorial statutes; much less did they know about them; they pursued the even tenor of the way to which they were accustomed. The territorial laws provided for a system of township government but the people followed the old Wisconsin laws. The territorial statutes made abundant provision for free schools but they actually developed very slowly. Each community was sufficient to itself and developed its institutions and regulations as it saw fit. If a road was wanted it was built without much attention to statutes. If a crime was committed the community meted out its own particular kind of punishment. It was some time before the state statutes were generally observed. Political institutions were thus adjusted on the most democratic basis and ideas and modes of life served to keep them there. It is this readiness to depart from established institutions or methods of conducting and regulating public affairs which has marked practically all of the western states. Much of the radical and experimental legislation common to many of the western states has been expressive of the same thing and has been strongly influenced by

¹ Macy, *op. cit.*, pp. 21-22.

the conditions and tendencies already stated. Western legislation has been a constant source of interest to more conservative sections. Oklahoma's legislative experiments certainly betray no undue amount of super-conservatism.¹ It is not that new systems and new legislation have been so common in the West as that laws under which men had grown up and to which they had become accustomed were adopted and applied to new conditions. The democratic ideal has been realized in so far as the adaptive process could be secured by the body politic in accordance with changing conditions and needs. Smith observes: "The whole course of later political development in this country (following the constitutional period) may be viewed as the outcome of a movement to evade or break down the checks intended to guard against what the founders regarded as an undue and dangerous extension of the power of the people."²

Enough has been said to indicate the close connection between economic and social conditions, and political activity in the West. This has been most apparent in those democratic movements which from time to time have punctuated American political history. Jacksonianism embodied the democratic idea; but it did not stop there. Local movements now and then indicate how very much alive this particular ideal has been. So we are not surprised to find the two branches of the Populist Party in 1890, the democratic of the South and the republican of the Northwest, ringing the popular cry against special privilege, and maintaining that they were the only true Democrats and democratic Republicans standing for "Jeffersonian sim-

¹ Cf. Beard, "The Constitutions of Oklahoma," *Political Science Quarterly*, March, 1909, vol. xxiv, no. 1, p. 95.

² "Recent Institutional Legislation," *Proceedings, American Political Science Association*, 1907, vol. iv, p. 141.

plicity; honesty and economy in government; to secure a fair field for all; to resist commercialism; to oppose banks, 'Wall Street,' and the 'money-power'; and the general corruption and cowardice of the old parties."¹ Standing for the common people in city and country the Populists waged war for a new democracy. The growth of this political movement and the distribution of its support is indicated in the table.² It indicated somewhat the temper of the people at that time whatever the cause. It will be noticed that the greatest strength of the movement was located in the primarily western agricultural states.

Now this people's movement was not one of sudden growth but one which had been developing for at least two decades, particularly during those years coincident to a more rapid occupation of trans-Missouri regions. It found stimulation in those conditions resulting chiefly from the rapid settlement of a new country; from the over-exploitation and development of lands producing stringent financial conditions; rapidly changing methods of production and transportation; inadequate social and governmental control; certain government policies, particularly those relating to the disposal of the Public Domain; inadequate banking facilities; insufficient money; a general restlessness traceable to bad financial conditions throughout the whole country but particularly in the West; and those social democratic tendencies which had been cropping out more or less from the earliest periods of western settlement. Its full interpretation should not be made without recognition of all these complex facts.

¹ Woodburn, *Political Parties and Party Problems in the United States* (1903).

² Cf. p. 119.

GROWTH OF THE PEOPLES PARTY¹

States	1888	1892	1894
Alabama		85,181	83,283
Arkansas	10,613	11,831	25,441
Arizona			2,902
California		25,352	
Colorado	1,266	53,584	82,111
Connecticut	420	806	1,546
Delaware		13	
Florida		4,843	
Georgia	136	42,937	96,888
Idaho		10,520	7,112
Illinois	7,090	22,207	57,793
Indiana	2,694	22,208	29,388
Iowa	9,105	20,595	34,904
Kansas	37,788	163,111	115,609
Kentucky	622	23,500	
Louisiana	39	27,930	26,563
Maine	1,344	2,381	5,321
Maryland		796	7,586
Massachusetts		3,210	9,037
Michigan	4,542	19,892	30,012
Minnesota	1,094	29,313	87,931
Mississippi	22	10,118	10,256
Missouri	18,632	41,213	42,263
Montana		7,334	15,401
Nebraska	4,226	83,134	97,815
Nevada		7,264	710
New Hampshire		292	832
New Mexico			1,835
New Jersey		969	
New York	626	16,429	11,049
North Carolina		44,736	148,344
North Dakota		17,700	8,758
Ohio	3,496	14,856	49,495
Oklahoma			13,320
Oregon	326	26,965	26,033
Pennsylvania	3,873	8,714	19,484
Rhode Island		227	223
South Carolina		2,407	
South Dakota		26,544	26,568
Tennessee	48	23,447	23,092
Texas	29,459	99,688	162,171
Virginia		12,275	81,239
Vermont		43	740
Washington		19,165	49,747
West Virginia	1,508	4,166	
Wisconsin	8,552	9,909	25,604
Wyoming		7,722	2,176
Corrected Totals	147,965	1,055,527	1,520,582

Republicans and Populists united in North Carolina in 1894. The Texas vote in the same year is unofficial. The total congressional vote in Washington is given for 1894.

¹ From McVey, "The Populist Movement," Appendix, p. 197, *Economic Studies*, 1896 vol. i, no. 3.

Briefly stated, the history of these so-called intensely radical and unmistakably democratic movements begins particularly with the organization and rapid growth of farmers' societies like the Patrons of Husbandry, the Agricultural Wheel, the Farmers' National Alliance and similar organizations and movements, which starting as educational and social propaganda, on the basis of mutual interests, in time turned to definite political activities. The economic discussions in the granges had much to do, no doubt, in stimulating thought and promoting democratic political activity. By this latter means western farmers, particularly, sought redress from the very serious economic conditions confronting them.

The early purpose of the grange was that of improving the lot of the farmer through education but a reading of grange session reports makes it quite apparent that discussion was very often directed against middle-men's profits, excessive railroad rates, transportation monopoly, monopoly in any form, land-holding by aliens, land-holding and speculation by corporations, and legislation thought to be directly subversive of the farmers' interests and prompted in large part, it was charged, by interested corporations. According to Morgan the real cause of the Agricultural Wheel's organization in 1882 in Arkansas was monopoly. It seemed to take the form there especially of oppressive mortgages and of disadvantageous trade and general economic conditions against which the Arkansas farmer rebelled.¹ The status of the grange idea appears in the annual address of Worthy Master Adams in 1874 at St. Louis before the National Grange. He insisted on the educational objective but refused to say that such subjects just mentioned could not be discussed.² The "Declaration of Purposes" adopted

¹ *History of the Wheel and Alliance* (1889), p. 56 *et seq.*

² See *Proceedings, National Grange*, vols. vii, viii, ix, x, 1874-1876.

at this same convention shows the thought of those assembled. The following are excerpts: Under Section 4 on specific objects it says: "For our business interests, we desire to bring producers and consumers, farmers and manufacturers into the most direct and friendly relations possible. Hence we must dispense with a surplus of middle-men, not that we are unfriendly to them, but we do not need them. Their surplus and their exactions diminish our profits." This is directed chiefly against exploitation. After insisting that the grange did not oppose the railroad, but on the other hand, recognized its necessity and value, the "Purposes" declared "we are opposed to such spirit and management of any corporation or enterprise as tends to oppress the people and rob them of their just profits. We are not enemies to capital, but we oppose the tyranny of monopolies. . . . We are opposed to excessive salaries, high rates of interest, and exorbitant per cent profits in trade." Thus began an essentially democratic struggle for home rule.¹ No single subject was so bitterly discussed and no bit of financial "finessing" was so denounced by the farmers, in and out of the granges, as the manipulations of the coterie of Union Pacific adherents and of the Credit Mobilier.

The grange movements developed in various parts of the country had much the same characteristics though varying in detail and purpose. The following brief and necessarily incomplete sketch of their rapid rise indicates somewhat the temper of the West at this time, and it is for this purpose that the general facts are cited. Whatever opinion

¹ An enlightening view of social thought and feeling in connection with farmers' movements of the early seventies, though the book must be read as propagandist literature, is Edward Winslow Martin's *History of the Grange Movement, or the Farmers' War Against Monopolies* (1874).

one may have of these movements he cannot but see in them elements of the most far-reaching importance and significance.

In spite of the rapid growth of the Patrons of Husbandry, it, as an organization, had practically disappeared by 1876.¹ But the Farmers' Alliance came into being. The first effort at organization was made in Texas in direct opposition to the spoliation of public lands by speculators, and the depredations of "cattle kings" who were alienating illegally and inequitably huge areas of land to private possession. Soon, however, this movement became more generally extended, with an educational purpose. Organizing definitely in 1882, in a short time the Farmers' Alliance was operating in Missouri, Kentucky, Tennessee, North Carolina, South Carolina, Georgia, Alabama and Mississippi.² Louisiana farmers in the Farmers' Union became affiliated and the society took the name "Farmers' Alliance and Co-operative Union of America." About this time the Agricultural Wheel sprang into being and operated in Arkansas, Missouri, Kentucky and Tennessee. In October, 1887, the two organizations were merged and finally became the "Farmers' and Laborers' Union of America." Two years later, though, a more significant organization under the name of the "Farmers' Alliance and Industrial Union" took form, an intensely political body, practically a merging of all organizations of the country with the same ideals and purposes. This movement was particularly important as it brought into prominence the National Farmers' Alliance of Illinois, with an estimated membership of 400,000 in

¹ U. S. Sen. Pepper, "The Farmers' Alliance," *Cosmopolitan Magazine*, April, 1891, vol. x, p. 694. From his direct connection with the grange movement and later as U. S. Senator representing the Populist Party his statements may be considered authoritative.

² *Ibid.*, p. 695.

1889, which extended rapidly through the north central states. Though not especially dissimilar to the southern organizations it showed some radical and very democratic characteristics in that it aimed

to interest the farmers of the United States for their protection against class legislation, the encroachments of concentrated capital, the tyranny of monopoly; to provide against being imposed upon by scandalous and scandalizing advertisements in the public prints; to oppose in our respective political parties the election of any candidate to office, state or national, who is not thoroughly in sympathy with the farmer's interests; to demand that the existing political parties shall nominate farmers or those who are in sympathy with them for all offices within the gift of the people; and to do anything in a legitimate manner that may serve to benefit the producer.¹

It may thus be seen how political action became a part of the farmers' program. Another organization was the Farmers' Mutual Benefit Association organized in Illinois in 1887. It did not reach large proportions.

By 1890 the political problem as to whether the members of the Alliance should use the machinery of their old parties or join in a distinctly new movement to attain the object desired was very puzzling. It was settled as far as Kansas was concerned this same year when the People's Party came into existence and in the state campaign the new party elected an attorney-general, five out of seven Congressmen, ninety-three out of 125 members of the lower house of the legislature, and one United States senator.

If we take Senator Peffer's statements as expressing general sentiments we have a view not only of the demands of the Farmers' Alliance but of general conditions. He said,

¹ Peffer, *op. cit.*, p. 695.

in the article written in 1891, to which we have already referred:

Agriculture is depressed, their labor is profitless, discontent broods like a cloud over the land.¹ The homes of the people are encumbered by an indebtedness which it is impossible to pay under existing conditions; they are being sold by the thousand every year with no remedy within reach. There is not enough money in circulation to supply legitimate business demands, saying nothing about the payment of loans, renewals in most cases are out of question, because with falling prices security weakens; and while property values go lower and lower, dollar values go higher and higher, and taxes, salaries, and interest absorb all the people's earnings, leaving nothing to pay on the principal of the debt. Briefly, nearly if not quite one-half of the American homes are mortgaged; wealth is fast passing into the hands of a few persons; money has become a power in politics as it has always been in social life, and the same influence which is draining away the substance of the workers is undermining the church. Look what way we will, encroachments of the money power are plainly visible. It pollutes our election, it controls our legislation, it debauches our trade, it owns our homes. It rules in the forum, the school and the church. It is king. The great over-shadowing problem of the time, then is money . . . this great uprising of the people means simply a rebellion against the usurpations of party managers who are wedded to the power that is crushing us, who wink at our misfortunes and laugh when our calamity comes. The people have concluded to take the government into their own hands. The Farmers' Alliance, then, means to dethrone the money power and thus emancipate the people . . . it means only the rule of the people.²

¹ Members of Senator Peffer's party were known as "calamity howlers."

² *Op. cit.*, p. 698.

Whether or not this was an over-drawn statement, the fact remains that Populism was a powerful western political movement of this period. Woodburn remarks: "The silver question was pushed to the front for party purposes" in 1898, "but to the social reformer the conflict had a larger aspect: it was a struggle for the control of the medium of exchange, the means of exchange, and *land monopolies* as great agencies in exchange and production."¹ Members of this party united most strongly on three propositions or grievances: namely, conditions pertaining to transportation, land and money. Nevertheless it was a general movement against plutocracy, great wealth accumulation and combination, and against interference and control assumed by monopolies and moneyed interests. Whether the leaders or rank and file of these movements fully understood the causes of the conditions against which they rebelled or not is not so important in the present connection as the character of the political propaganda itself.

The Union Labor Party of 1888, successor of the "Greenback" or National Party, was a protest largely against the conditions described by Woodburn as follows:

Farmers were forced by poverty to mortgage their estates; low prices were forcing bankruptcy, and the laborers were sinking into greater dependence. Strikes afford no relief; business men find collections almost impossible, while hundreds of millions of idle public money needed for relief is locked up in the United States Treasury, or placed without interest in favored banks in grim mockery of distress. Land monopoly flourishes as never before, and more owners of the soil are daily becoming tenants. Great transportation corporations succeed in extorting their profits on watered stock through unjust charges. The party asserted the existence of

¹ *Op. cit.*, p. 122; also, *cf. infra*, ch. vii and viii.

corruption in high places, that railroads and great corporations controlled legislation and judicial decisions; that the United States Senate has become an open scandal, its membership being purchased by the rich in open defiance of the popular will.¹

This party's strength was chiefly to be found in the Middle West; the Populist movement in the matter of transportation represented a constantly growing opposition to the lavish land grants, financial aid and help otherwise extended to railroads; further, opposition to the latter's participation in politics, state and national; rank displeasure at the railroads' disregard of regulative laws and rates; and lack of political and economic control of markets through the interference of transportation agencies. As to land, the buying up of areas by non-residents for speculative purposes, created the strongest resentment. It was easy for these men to profit by the increase in values brought about through the growth of the country and through developments and improvements made by others in which they scarcely shared. Vast tracts were held for rises in value and thus kept from occupation and from sale at reasonable market prices. Railroads and land companies were chief offenders, the first, by reason of the government grants; the second, often, by illegal and unscrupulous methods of securing possession. Closely allied to these two closely connected grievances were those concerning money conditions. Western farmers concluded that something was decidedly wrong, when they could not get enough money from their products to pay either interest or principal on their farm mortgages. If they had to borrow more money they had to pay high interest rates. They decided, then, that besides readjustments in transporta-

¹ (*Op. cit.*, pp. 109-110.

tion and land policies more money was needed.¹ As a matter of fact this latter difficulty, as the other two, rose largely from the natural conditions obtaining in the new country and from population movements.

Broadly speaking, the Populist propaganda represented a movement which had required a long time to come to a focus. It meant that men were more anxious and determined than ever to regulate their own welfare; it was not the outgrowth of a day but the product of many contributory causes. McVey says: "Its formation was due to changes in modes of agriculture and manufacturing introduced soon after the Civil War."² It can hardly be separated, however, in both strength and type of idea from the extraordinary conditions attendant upon the rapid opening of a new country; the extremely rapid population movements; lax land laws; exploitation of resources; inordinate development of individualism; inadequate social and political control; sudden growth of government-fostered corporations without corresponding means of regulation; usurpation of power, including political, in many directions, by these corporations; and the other factors mentioned previously in this and preceding chapters. It was significant that this "people's movement" often called radical, was one promoted and given strength by the agricultural class, men who tend to be conservative by reason of their property interests, and as will be shown later, a section of our people peculiarly individualistic in temperament and committed to the same idea of exploitation against which they struggled. Though the party as such is almost forgotten, its essential ideals continue and many of its former adherents have now

¹ Woodburn, *op. cit.*, pp. 111, 112, 113. For more complete statements see also pp. 116, 117.

² *Op. cit.*, p. 136.

joined forces with the so-called progressive element in the two present dominant parties.

Thus we have from the earliest periods of the trans-Allegheny movement down to the latest period constant democratic political movements which have successively borne marks of the social and economic conditions peculiar to a new country and particularly to those dominating the occupation of the huge American Public Domain. More intensive studies in the political history of western states other than those herein included and of Pacific coast states would probably yield much interesting material. Thus it might be seen that throughout our successive pioneer periods the West has been the breeding ground for many of our most vigorous democratic movements, for states' rights, for home rule, for the widest range of individual liberty and for the vigorous championing of the "sovereignty of the people." Western states have ever sought to protect their own interests and have resented interference; western communities and sections have fought valiantly for local control; and individuals have, as will be shown later, sought to rid themselves of or avoid restraint. Economically and socially we have found explanations for this in the general conditions which have obtained in the West coincident with its occupation. Political movements are but surface expressions of deeper agitations and disturbances in the currents of social life. Considered alone, these democratic tendencies and the encouragement of individual liberty are good. From another point of view may we not perceive the dangers which even they incite? Blessings scarcely ever come alone; with them we may almost always find some difficulty which previously we had not appreciated. There is no question that in "democracy" we have some of the deepest problems of social evolution. It is because democracy is a dynamic ideal and as such continually brings us

face to face with new problems in its applications. Democracy comes out of hard progress, with a grinding and a wearing of cumbrous social machinery. At each stage of social progress, however, there is in general a nearer approach to its abstract principles, though the application of those principles will probably offer complexities to the human mind for an indefinite time.

CHAPTER VI

DEMOCRACY AND INDIVIDUALISM

IN principle democracy guarantees a maximum amount of individual liberty consistent with social welfare, but circumstances are likely to vary the application of the principle. At all events democracy and individual liberty are closely bound together at least in the sense that democracy breeds or encourages liberty. Though individual liberty, on the other hand, has had much to do, without doubt, with the development of democracy, still it is an open question as to whether the exercise of individualism may not have most serious effects on democracy. The question now is, since the West and conditions there have encouraged democracy and the democratic ideal, how far these same influences have encouraged individualism; in what way, how far and with what apparent results? Or, more broadly, what has caused the rise of certain problems in our national and social life, and why?

In early periods of social organization the individual was subordinated to his group—family, clan or tribe. Sir Henry Summer Maine points this out clearly by contrasting modern with ancient society.¹ In earlier social organization the family was the unit; now it is the individual. With the family as the unit the individual members become secondary in importance. This extended to matters arising with offenses committed against the law. A crime became a corporate act and involved others than those directly partici-

¹ *Ancient Law*, pp. 121-122.

pating in it. A man who committed a crime made all his kinsfolk liable. The movement of all progressive societies, however, has been toward dissolving this group intensification, substituting therefor individual responsibility.¹ In time, with the growth of civil organizations, came the development of civil codes whose provisions were equally binding on all. The beginnings of formal law codes recognizing the individual as a responsible unit in society was a great step forward in the evolution of social institutions.

But even then men more or less lost their identity in the social order. Power in the form of external control, emanating from a superior source, regulated or limited the individual's field of action. Later on the church, for instance, took upon itself the right and duty of ordering his religious life until the movement for free thinking and personal liberty found expression in the Reformation, a movement which brought about the organization and dissemination of the great protestant faiths, and which in the earlier periods, as the name signifies, was a protest against highly-developed authoritative central control by an institution repressive of individual liberty in matters religious. Though it can hardly be said that this protestant movement completely realized in itself the ideal of religious liberty and toleration, yet it paved the way for reformations to follow down to the present time and for increasing religious freedom.² It should be remembered, also, that the great protestant movements for religious freedom followed those of the preceding intellectual renaissance when intellectual freedom was fighting for life, not only theoretically but also literally. In fact, the Reformation was chiefly induced by

¹ *Ancient Law*, p. 163.

² For later developments of religious freedom cf. Lecky, *Democracy and Liberty*, ch. vi, pp. 509-529 (especially).

the revival of learning of the Renaissance during which time the individual began to move out of the intellectual gloom which so long had enshrouded him.

Whether the movement toward political individual liberty was primarily induced by ideal, philosophical or so-called materialistic forces is not a question for argument at this point. The important fact is that in this realm of life, also, social progress has made for individual freedom—a maximum amount of individual liberty consistent with social rights. These developments, while embracing other characteristics, have embodied in them, also, growing “conceptions” of individual liberty. English political history has abundantly shown this. Of the French Revolution it may be said that the political philosophy of the times was a most powerful force. In America, also, where the writings of Thomas Paine had a potent influence, this philosophy was powerful; nevertheless the tremendous influences of material conditions in America, a new country, particularly intensified the American movement.¹ “Taxation without representation” was not only philosophically obnoxious but besides, in time, wholly impossible. Ideals of personal liberty and of local freedom which distinguished the New England colonies, and, in part others, were strengthened by conditions of the times and by the economic and so-called natural influences of a new country—isolation, local community interests, *et cetera*.²

The next step was that of embodying these ideals in political form such as the idea and practice, as much as possible, of local autonomy, self-rule, popular political representation, and other distinguishing marks antedating the Ameri-

¹ Cf. Osgood, “England and the Colonies,” *op. cit.*

² Cf. Cleveland, *The Growth of Democracy in the United States*, pp. 37, 244 and ch. ii.

can Revolution but more particularly following it when it was necessary to work a constructive political philosophy into definite practical form. That the Constitution is said to have included reactionary policies is only one way of saying that the politically democratic or individualistic movement had gone so far as to provoke a reaction.

The rights of or a recognition of the identity of the individual largely secured in civil, intellectual, religious and political life, there still remains the mighty struggle in the economic field. Here the lines become confused. We are yet in the process of making. The mooted questions of where individual rights begin and end are unusually complex in America largely because of the conditions which have encouraged not only the ideals but also the practice of the purest individualism. The natural forces obtaining in the new country, coinciding with the unsettled state of population and to wonderful changes in methods of production and distribution, have been tremendously powerful in encouraging individual initiative, enterprise and freedom. The great significance of the situation lies in the fact that, whereas problems of individual liberty in the economic realm are yet to be solved, western development has but accentuated them by encouraging individualism. Extraordinary means, industrially, for the production of wealth, have suddenly given man the tools to prove economically his individual ability, initiative, inventiveness and resourcefulness. They have stimulated him to bend every effort to secure full returns for the exercise of these qualities. At the same time vast areas of territory, free land and great stores of natural wealth have given him the greatest opportunity to use the tools at hand. Both have been an inspiration to strenuous efforts for large material return with a consequent great exploitation of natural resources and the promotion of enterprises, which, while benefiting certain

individuals and groups, have borne with unequal weight on others. The rapid growth of large fortunes tending to create class differences based on wealth is increasingly marked. This, with the circumstances surrounding it, is believed by many to be fundamentally subversive of the highest ideals of democracy.¹ The frontier, as Professor Turner and others point out, and the conditions there, have been potent forces in accelerating the speed with which growing ideals of individual freedom have been realized. Summing up these movements toward individual freedom, Professor Blackmar says: "For we live to-day in the last period of a great reform movement which began in the renaissance, when the right of independent thought or the freedom of mind was demonstrated. This was followed by the reformation which secured freedom of religious belief. This led on to political revolution and political liberty. Now we are engaged in the fourth phase of the struggle, that of industrial liberty. In this will come the final triumph of ethical society."²

It is not our intention, at this point, to attempt a discussion of the involved relations of democracy and liberty. The statement that: "No less degree of genius than that which blends the historical with the philosophical intellect, and is able to apply the highest constructive power to the tremendous task of explaining political progress will ever give us a true account of the involved relations of liberty and democracy—the most complex, the most momentous, the most fascinating and the most baffling products of social evolution,"³ is almost enough to discourage

¹ Cf. Ghent, *Our Benevolent Feudalism*; and Henry George, Jr., *The Menace of Privilege*.

² *Elements of Sociology*, p. 190.

³ Giddings, "The Destinies of Democracy," *Democracy and Empire*, p. 199.

even a modest attempt to consider one or two phases of the question. The facts are, however, that it is this very problem which confronts one who has made any intensive study of social movements in America, particularly those in connection with its occupation, settlement and exploitation. The involved relations of personal freedom or liberty and democracy in this field do not remain a matter of speculative theory or for philosophical discussion but one of comparative facts. Consequently, the study is one of fact rather than theory. Both are necessary for an adequate political philosophy.

Concrete and generally acceptable definitions of individualism as well as of democracy and of liberty are not easy to find or model. They are ideas difficult to formulate in a few words, and besides, few ideas exactly coincide. Mr. James Bryce, however, gives a pointed statement of individualism. He says that there are two dogmas fundamental in American thought:

1. Certain rights of the individual, as, for instance, his right to the enjoyment of what he has earned, and to the free expression of his opinions, are primordial and sacred. 2. The less government the better; that is to say, the fewer occasions for interfering with individual citizens are allowed to officials, and the less time citizens have to spend in looking after their officials, so much more will the citizens and the community prosper. The functions of government must be kept at their minimum.¹

Now this involves the *laissez-faire* principle or the policy of non-interference. This has two foundations, says Mr. Bryce again, which may be called the sentimental and the rational.

The sentimental ground is the desire of the individual to be

¹ *American Commonwealth*, vol. ii, pp. 536-537.

let alone, to do as he pleases, indulge his impulses, follow out his projects. The rational is the principle, gathered from an observation of the phenomena of society, that interference by government more often does harm than good—that is to say, that the desires and impulses of men when left to themselves are more likely by their natural collision and co-operation to work out a happy result for the community and for the individuals that compose it than will be attained by the conscious endeavors of the state controlling and directing those desires and impulses.¹

The former has been extremely strong in America. The latter has found greatest expression in the common-sense notion that individual enterprise has made America and will run America better than any government.²

Mill's classic maxims express somewhat the same idea of individual liberty. First, "the individual is not accountable to society for his actions, in so far as those concern the interests of no person but himself." Second, "for such actions as are prejudicial to the interests of others, the individual is accountable, and may be subjected either to social or legal punishments, if society is of the opinion that the one or the other is requisite for its protection."³ Another authoritative statement on the characteristics of individualism is to the effect that "An individualist may maintain that the end which justifies all justifiable means is the greatest good to the greatest number; what makes him an individualist is his conception of the greatest number as composed of independent units, the happiness of each one of which is to be reckoned as a separate item in the sum total of several happiness."⁴ These definitions, however,

¹ *American Commonwealth*, vol. ii, pp. 537-8.

² *Ibid.*, p. 538.

³ *On Liberty*, pp. 139-140.

⁴ *New International Encyclopedia* (New York, 1908).

serve but to indicate the difficulty in determining the point of demarkation between individual liberty and social rights.

This is an elusive problem and conditions have been such in America that it has become very complicated. Most writers assume that individualism and democracy go hand in hand. This is true, but only up to a certain point. Political democracy is based on the idea of the individual participating in the affairs of government. Yet it may be conceived that the individual may exercise his rights so fully as to cut under the effectiveness of the democratic idea as far as the realization of that idea affects society in general. Population movements and land policies in America give us an exceptional opportunity to make a comparative study of these two phases of social evolution. The democratic idea, according to Mr. Bryce, has been to reduce the activity of government to the narrowest possible field, and the frontier has been a most potent force in this direction. At the same time, natural conditions and the peculiar frontier stimulus in America have served to promote and develop the individualistic idea in all directions through opening the most favorable avenues for its expression. Furthermore, social control, minimized or developing more slowly than the growth and distribution of population, and the opening-up of new territories, has not operated strongly enough to appreciably check the natural tendencies of individuals. The constant struggle against various "interests," individuals and groups bent on exploiting the West is abundant evidence of the lack of control.

The effects of natural conditions and economic stimulus in encouraging individualism were marked at periods preceding the Revolution as well as in the West. Says Professor Osgood for pre-Revolution days:

No conditions are so favorable to the growth of individualism

as frontier life. Each individual or family is there brought face to face with savage men, and forced to depend on its own resources. Contact with civilized life ceases, and union between settlers or communities becomes almost impossible. Society is atomized. Views of life and policy become narrow and provincial. Self-interest and local attachment become abnormally developed. These conditions prevailed in the colonies but in an extreme form along the western border, from New York to Georgia. There the loosest notions concerning individual liberty and local independence prevailed. . . . The records show that the burden of opinion in the colonies was jealousy of all government so far as it operated as a restraint. The interference of government, whether colonial or imperial, was welcomed by the colonists, when it could be used for the advancement of their private or local interests; when larger objects were aimed at, it was if possible ignored or resisted. As the colonist's conception of his liberty was exaggerated so was his sensitiveness of encroachment on the part of the higher powers, whether they were governor, Council or Parliament.¹

Such was the heritage falling to the men of the earlier trans-Allegheny periods before the flow of population westward; and such was the background out of which continued to develop western individualism.

At the conclusion of the Revolutionary War philosophical notions of liberty and freedom, strengthened by the contest which had been waged to secure these ideals, engaged the thought of the American people. These ideas persisted. The direct influence of the great population movements and the occupation of the West; the dislocation of institutions—economic, social and political; the general social conditions obtaining on the frontier; the stimulus for individual activity, initiative and competition—all were potent

¹ *Op. cit.*, p. 457.

forces to perpetuate and strengthen these ideas. On the other hand, agencies of social control, formal and informal, lacking or reduced to lowest terms, as is generally true in new countries, did not bear down heavily on the individual but allowed him the widest freedom of movement. Consequently, everything has made for the individualistic idea in both theory and practice.

One should not forget, furthermore, the impetus which the American Revolution, largely through objectifying the idea, gave to a growing individualistic and politically democratic philosophy. The Declaration of Independence was enthusiastically accepted on the frontier, as elsewhere, as an inspired document, and the war was fought out on its principles. The Constitution, later, embodied in concrete form these principles even though this instrument may be declared reactionary or at least conservative in character. Subsequently, state constitutions continued to embody these principles on an even more liberal basis. It is interesting to note that western states have been most careful to limit legislative control over cities.¹ While the importance of federation was realized and insisted upon, still at bottom individual initiative and local autonomy have been preserved as far as possible. The spirit of self-rule, not only political, but also personal, has marked the West. In other words, the inheritance of the revolutionary spirit, developing with freedom and ease in the New West, was that of the individualistic democratic ideal.

Conditions down to date have helped preserve and develop these ideals. Men have confronted an untamed nature. A premium has been placed on vigor and individual strength. Life on the frontier has been harsh and crude. Separation by distance and difficulty of communication with more

¹ Cf. Goodnow, *Municipal Government*, p. 84.

settled parts have thrown men on their own resources. The attractions of the new country offered great incentives for gain, thus placing a premium on individual ability. A struggle was presented to the new-comer but he was rewarded according to his ability in capitalizing opportunity. On a broad scale, as Fernow, of the Forestry Division, Department of Agriculture, has said:

A small but energetic and progressive population took possession of and spread itself over an immense territory, boundless in resources, with no check, borne by territorial and economic development, which would restrict expansive and favor intensive management of resources. As is natural under such conditions, individualism has developed itself in proportion to opportunities for its expansion—individual interests and rights are considered foremost, while with a more or less unstable population, communal interests are but imperfectly recognized and considered, and communal spirit has hardly awakened because less necessary. . . . Private interest in natural resources is concentrated on present gain, and where this gain can be secured by utilizing only the best of the natural growth, [forest] then abandoning the old and opening up a new field, the incentive to management of the resource for continuity is absent.¹

This was true of the early trapping and the later agricultural stages of occupation in the exploitation of natural resources and the development of a multitude of various other enterprises. The stimulus of rapid economic gain acted in much the same way on all.² Man responded by plunging into a contest with nature and he was best re-

¹ Fernow, "Practicability of an American Forest Administration," *Publications American Economic Association*, 1891, vol. 6, pp. 261-2.

² Cleveland, *op. cit.*, p. 248.

warded who used his individual abilities and opportunities the most vigorously. Furthermore, men resented any interference in these matters. The Kentucky and Tennessee frontiersmen, the river boatmen, the early Ohio merchants, the southern planters, the California miners, the cattlemen of the plains, the lumbermen on the nation's timber lands, the railroad builders, the land speculators, the bonanza farmers—all have pursued their several interests on the individualistic basis. The rapid extinction of game, the exploitation and waste of natural resources, the speculation in lands of which the crises of 1837 and 1873 bear witness, and the amazingly fraudulent alienation of the Public Domain reported by successive land-office commissioners are partial indications of this widespread individualistic activity above referred to.

The bona-fide settler, himself, by reason of his proprietary rights in the pre-emption and homestead systems, expressed in his own movements these characteristics. The idea has held full sway that the Public Domain was to be used for individual and private rather than for general social welfare. As a result, it has been a constant struggle in the General Land Office to protect the interests of the whole public against the operations of individuals who have sought to profit at public expense.

A population characteristically fitted to respond to the stimulus of a new country has dominated western settlement. A most vigorous and capable population, native and foreign, sought to better itself comparatively free from restraint. The rapid growth of the country, itself, with its various interests, bears witness to the character of those taking part in its occupation. Liberty and freedom from restraint in the West had no small part in encouraging a resentment to outside interference in business and politics of which opposition to the United States Bank and anti-

federalism are examples. The frontier, as has been so ably pointed out by Professor Turner, has been a most potent factor in thus preserving the ideas and ideals of individual rights and personal freedom.¹ This influence of the frontier is fundamental for it has been constant throughout the past century, not only as a frontier alone but as a reflex influence on the rest of the country in more settled parts. The forceful type of whom Professor Giddings speaks,² has steadily been a powerful element in the American population.

Social conditions have promoted the individualistic idea in the West as well as the democratic. From the first, population preceded or settled coincidently with the organization of formal social control.³ Men were forced to create a new social environment and adapt social institutions to conditions and needs instead of being projected into an already prepared system as is a child at birth. Consequently, men as creators, in a democratic system have been independent, free and individualistic in experimentation.⁴ This influence, undoubtedly, has had much to do with the radical tone of legislation in many western commonwealths, particularly in those where "granger legislation" has been prominent.

Lack or respect for law thus created might reasonably be expected. The halo of old age has not surrounded legal and political institutions. Laws have been judged, not so much

¹ Yet sumptuary legislation seems to have suffered but little opposition in the West. At least statute books have held their quota of such laws.

² *Descriptive and Historical Sociology*, p. 233; also, *Inductive Sociology*, pt. ii, ch. ii; cf. also *infra*, ch. i.

³ For institutions of social control, see Ross, *Social Control*.

⁴ Witness legislation and acts of Constitutional Conventions in the West.

on the basis of their age and legal sanctity, as on their efficiency. Winsor, writing on the period 1763-1798, observed that even then there was breeding in the West an idea of the precedence of natural over legal rights.¹ Birkbeth, in his Illinois letters, wrote, in 1817: "The first settlers, unprotected, and unassisted amid dangers and difficulties, have been accustomed from early youth to rely on their own powers; and they surrender with reluctance, and only by halves, their right of defense against every aggression, even to the laws which they themselves have constituted."²

The prominence given to individuals in politics is another indication of western ideals.

Social restraint is reduced to the lowest terms in a new country.³ Rules of conduct tend to simplify. Over-much control is not tolerated and develops only rapidly enough to meet needs. Even New England communities in Ohio showed a tendency to weaken in social control. In the California mining camps the social contract idea of Rousseau found practical expression. In the cattle-country social restraint gave way to individual freedom with simple rules of conduct holding men together in a very elementary way. In the frontier communities of Kentucky and Tennessee a maximum amount of individual freedom was permitted, though from the start an elementary group control held these communities together and adjusted, though in a most simple way, the difficulties in frontier life. In the successive frontier communities from Ohio to Iowa and farther, may be observed a steady though comparatively slow growth and development of various agencies of social control. The significance of this lies in the fact that

¹ *Westward Movement* (1897), p. 387.

² *Notes, op. cit.*, p. 97.

³ Ross, *op. cit.*, pp. 41-42, *et seq.*

throughout American history there has been a constant reduction of social control to lowest terms while at the same time circumstances and conditions have been such as to make this favor the growth of individualism, while control, itself, was most vitally needed.

Community and group solidarity has been an interesting phase of western development. "Community of interest" has bound groups solidly together, as in the case of Kentucky and Ohio early settlements, Michigan and Illinois "towns," Iowa land claim associations, Kansas and Nebraska farmers' associations and California communities. Within these groups a strong social consciousness has been constant, but beyond its members and local interests the groups have had slight interest. In this sense even group solidarity has encouraged individual and "group individualism." National interest may thus suffer because of sectional interests.

The *laissez-faire* policy or idea has received ready acceptance in America, as Mr. Bryce and others have said, and particularly in those sections most closely identified with the distribution of the Public Domain. Congress, itself, carrying the responsibility of protecting the interests of all, from an early date showed itself singularly dilatory and unwilling to provide adequate land laws, with the result that the *laissez-faire* idea permeated through and through the body politic and produced misappropriation of government lands by states, individuals and companies. In the next chapter will be found a statement of facts related to this. Most marked illustrations of this theory in its results, aside from the misappropriation of public lands, may be found in the exploitation of natural resources—soil, mines, forests. It is the principle upon which the southern cotton lands were robbed of their fertility; upon which such waste has been recorded in the extraction

of mineral products; and upon which vast areas have been stripped of their timber. Added to this, we find men vigorously opposing any control in the matter on behalf of social interests. Opposition to control to-day should be interpreted undoubtedly in the light of past experience and practice.

"Insufficient control," however, is not an abstract idea. This comes from society and when society is not sufficiently organized, or devotes its attention to other matters, as observed of the people of early Illinois, or is held in the grasp of circumstances over which it has but little or no control, liberty is bound to show itself. Such has been the case. The individual, naturally taking advantage of the opportunity, has not hesitated to place himself practically beyond control. When society, discovering the intrenchment on its own redoubts, took thought to act, it found the individual or the group of individuals quicker to move and was therefore at a great advantage.

In conclusion and summary: it appears that conditions and influences in the West have been powerful in helping to develop the individualistic idea as well as the democratic. The opening of the West, coming at a critical time, when philosophical ideas of liberty and freedom had just found expression in a "revolution," gave further opportunity for their realization and free expression. At the same time, society and social institutions have been in a state of generation, flux and development. The avoidance of law has been common in western development and particularly, as will be observed, in matters related to the Public Domain. Yet, says Gilman, "one of the severest tests of the civilization of a people is the amount of its subjection to law. In proportion as law covers the actions of individuals and associations, defining what they shall do and what they shall not do, with the aim and the result of insuring the largest possible welfare to all, is a country civil-

ized. 'Only law can give us freedom.'"¹ This being so, provided the law is expressive of the real social will, the problems developing through national growth have been and are of the most far-reaching importance. Indeed they reach down into the very heart of national life and social welfare. Questions to be answered, therefore, are: Has individualism moved faster than social control; how much political social control is desirable in a democracy; have individual interests dominated social interests; and, what relation has individualism and social control in this connection to democracy?

¹ *Methods of Industrial Peace*, p. 402.

CHAPTER VII

INDIVIDUALISM AND THE PUBLIC DOMAIN

"EVERYTHING human sins against its own principles," observed Hobhouse.¹

Men love liberty, but they love power more, John Stuart Mill suggested, and when it becomes a question of their own liberty and their own power *versus* social rights, there is apt to be a clash of interests. Democracy in America, standing, as it does, according to Mr. Bryce, for much personal liberty and a minimum of restraint, appears weak at this point. The notion of personal liberty breeds the idea of personal license and special privilege, which when forced too far, break down of their own weight or undermine the foundations on which democracy is founded.

Social conditions are reflected in political institutions; consequently in America we have had healthy developments in the direction of political democracy. Possibly never before has there been any nearer approach to original conditions encouraging equality and its brother, democracy, than in America during its years of internal development, and these conditions have put their stamp on our social and political life. Yet at the same time opportunity for the expression of inequality in individual ability, intellectual power and diversity of aim have never been greater. Of the utmost importance is the fact, also, that this long period of development has coincided with a great industrial

¹ *Democracy and Reaction*, p. 168.

revolution. The idea of liberty and the principle of *laissez-faire* have been heartily endorsed. Consequently, out of conditions which encourage economic, social and political equality, it seems that rapid development of inequality has taken place. Dr. Moses has observed: "We are led to regard the movement from equality of material conditions as a characteristic feature of progress under freedom."¹ We may expect this to occur naturally without assistance, but in America we can observe the government, as usual, assisting in the process and at the solicitous behest of individuals.²

Policies of the central and state governments and the attitude of the people respecting the disposal of its Public Domain, the occupation of public lands, the capitalization and exploitation of natural resources, the rapid growth of wealth, the shifting of population and the modification of institutions, are intimately related to these matters.

The government first disposed of public lands for revenue.³ A different policy was adopted in time, however, *viz*: opening public lands to home-seekers in order to encourage their occupation and settlement. The Homestead Law was the epitome of this most democratic policy. But throughout Public Domain history the insidious operations of unscrupulous though often bona-fide settlers, acting on an intensely individualistic basis have been a constant annoyance, and often a matter of alarm within and without the Land Office. The stimulus of the New West directly encouraged this and has undoubtedly strengthened those natural tendencies of human nature to which we referred in the opening paragraph of this chapter.

The frauds committed under the several settlement and

¹ *Op. cit.*, p. 22.

² *Cf. ibid.*, Lecture I.

³ *Cf. infra.*, ch. ii.

disposition laws became so glaring and numerous that in 1883 it was found necessary to create a special division in the General Land Office to handle these matters. In the Land Office report for 1883 the following classes of frauds were enumerated: fraudulent pre-emption filings, fraudulent pre-emption entries, fraudulent homestead entries, fraudulent mineral entries, fraudulent timber-culture entries, fraudulent timber-land entries, fraudulent desert-land entries, fraudulent donation entries. The Public Lands Commission of 1905 reported 60,784 alleged fraudulent entries from 1884 to 1904 under various laws.¹ The wealth of the country and the abundant resources seemed but to whet the edge of desire, says Cleveland, and multiplied the inducement to predatory activity as well as to production.² The only difference here from the usual distinctions of industrial and predatory groups in society is that in America they have been united much of the time and certainly the West has encouraged this even to the control of government. Broadly speaking, at every point and under every law, fraud and illegality bear unmistakable witness to the way in which huge areas of public property have been privately appropriated. On the whole the Land Office has rendered good service in blocking fraud, corruption and illegal occupation. We may charge much injustice to the laws themselves and thus indirectly to Congress, but of far greater influence has been individual and social conduct respecting these matters. A letter from Mr. H. H. Schwartz, chief of the field service, General Land Office, recommending the appropriation by Congress of one million dollars to prevent further depredation on public timber, to protect public lands, to settle claims for swamp lands and for swamp indemnity, dated January 15, 1909, stated that cases of alleged fraud and

¹ *Op. cit.*, p. 362.

² *Op. cit.*, p. 248.

illegality then pending represented \$114,733,873 of public property. In addition, there were 1,094 other cases in the Department of Justice and United States courts. He urged haste in these Congressional appropriations before it was too late for recovery.¹

The Public Domain was for occupation. One could scarcely challenge the man, therefore, who endeavored to secure his legitimate share of it. What that share could be and how it could be secured were stipulated by law at the several periods. The facts are, however, that under each law, buyers, pre-emptors, homesteaders and commutors have endeavored, not only to secure their legitimate share, but also all they could lay their hands on, legally or otherwise. Furthermore, they have been highly successful. In order to get this land, also, as easily as possible, every possible short-cut has been devised and resorted to. Even among bona-fide settlers, a common thought, apparently, has been how best to evade the provisions of the law. Regulations have been observed by only the narrowest margin if any at all. This policy has not only been tolerated but it has had common acceptance and wide social approval with what effects one may easily conjecture. The barest possible recognition has been made of social interests or of governmental restrictions, as such. Infraction of land law, therefore, has not been so much a matter of extent as of quality. Or, rather, the country at large, has not objected so long as the abuses were not too glaring or too pernicious, did not cover too wide a range, or did not affect someone's personal interests. It has been constantly difficult to accommodate law to popular desires and there has been a constant tendency to evade the laws, which seem to have been regarded as created for privilege rather than protection.

¹ Cf. Sen. Doc., no. 667, 60 C., 2 S.

False entry and "proving up," illegal occupation and dishonesty, have not been attacked so much through principle, apparently, as because they occurred on such a large scale. Added, the fact that, under certain conditions, one could secure land under the Mineral and Stone Act, the Timber Act, and the Homestead Act at the same time, not to mention the land which could be illegally diverted in other ways but most easily, one discovers in the laws themselves prolific opportunities for miscarriage of an ostensibly democratic land-distribution plan. In other words, while by law we have insisted on a recognition of the democratic idea, in actual practice, wide departures from this ideal have not only been tolerated, but, it would seem encouraged, and the law by its insistent and increasing recognition of private property rights has but strengthened this.

Population movements and the rapid occupation of the Public Domain have taken place on the economic basis. Therefore, we look to soil exploitation, waste and exploitation of natural resources in forest and mine, occupation and alienation of land, illegal and fraudulent land entry and land occupation, land speculation, and other details of western history for encouragement of the personal liberty idea and of an individualistic philosophy of conduct.

Soil Exploitation

Land hunger, basic in the occupation of the West, may be measured by the scale upon which the occupation, itself, took place. After the hunter, trapper and trader it was this which made the forests give way to axe, fire and plow. Land was desired for agricultural purposes. Consequently the country was stripped of its trees and the wasteful lumbering methods of later date began. With the land cleared, agriculture was conducted on a strictly exploitive basis, *viz.* by "cropping." The best-paying crops were raised until

the soil was exhausted. Better land was easily available, and when diminishing returns rendered further cultivation with existing methods unprofitable, the farmer moved further on. This encouraged the idea from the start that it was more profitable to "kill" than "cultivate" land or to handle it conservatively. Land has been regarded as part of a cultivator's current expense rather than an investment.¹ The southern cotton and tobacco industries were promoted on this principle. The rich alluvial lands of the Mississippi states offered great inducements for these exploitive methods and the slave system itself became extended largely for this reason. The price of slaves in the market increased with the opening-up of western lands, and planters constantly removed to newer districts leaving behind them a soil so exhausted as to yield only meagre returns to the poor whites. This exploitive system left large parts of Virginia, Maryland and North Carolina no longer able to yield good returns in tobacco.² The new western lands, including those in the southwest, encouraged the wasteful and reckless "cropping" process by offering larger return with minimum expenditure of energy and capital.

Soil exploitation was not limited to the South, however. The same is perfectly apparent in other states, particularly the grain states. According to the usual methods of cultivation which have been followed, generally thirty years of tillage reduces the crop by two-fifths.³ Yet within recent years only has any serious thought been given to con-

¹ Cf. M. B. Hammond, "The Cotton Industry," *Publications American Economic Association*, Dec., 1897, New Series, no. 1, ch. 3; also, C. W. Howard, *Patent Office Report*, (Agriculture) 1860, p. 226. Quotations from an agricultured paper.

² Shaler, *United States of America* (1894), vol. i, p. 415.

³ *Ibid.*, p. 415.

servation of soil fertility. The same methods of cultivation which Birkbeth reported in 1817 in Illinois are still common to-day. "The idea of exhausting the soil by cropping so as to render manure necessary, has not yet entered into the estimates of the western cultivator. . . . They have no notion of making a return to the land, and as yet there seems no bounds to its fertility."¹ The same process of soil deterioration observed in New England, and that which was partially responsible for its great loss of population during the earlier pioneer periods, is to-day marked in the central West. Farm lands of western New York, Ohio and Indiana have been affected. Between 1880 and 1900 land values in Ohio shrunk \$60,000,000, whereas an increasing population would be expected to raise values. Mr. James J. Hill, who is responsible for this statement, claims it to be due in large part to soil exhaustion.² Quoting further, Mr. Hill, basing his statements on government statistics, besides having intimate knowledge on these matters, says: "The soil of the West is being reduced in agricultural potency by exactly the same processes which have driven the farmer of the East, with all his advantage of nearness to the markets, practically from the field."³ In the primary cereals there is a reduction in yield. The average yield of corn per acre in 1906 was less than in 1872. The wheat yield in New York state has decreased per acre. Kansas lands produced 15.14 bushels during the first five years of the last decade and but 13.18 bushels during the second five years. Minnesota, the center of the new big wheat-belt,

¹ *Letters, op. cit.*, p. 18.

² Cf. "Natural Wealth of the Land and Its Conservation," *White House Conference of Governors*, May 13-15, 1908. *Bound Proceedings*, p. 68.

³ *Ibid.*

has also lost in yield.¹ "Bonanza farming" has proceeded on the "cropping" basis. Comparatively small attention, if any, has been given to replenishing soils robbed of their fertility. Men have "cropped" and passed on. There was always more rich land in sight. Now the law of diminishing returns is observed at work and farmers are gradually responding to and seeking the advice of agricultural college experts. But this is noted only after the soil has been racked and impoverished like forest and mine. Largest possible immediate returns have been demanded irrespective of future welfare. But powerful economic and other reasons which seem to some to have justified exploitive soil cultivation have mainly ceased to exist with the West practically all taken up. Yet the damage has been done. By 1880: "The accumulations of capital out of the profits of American . . . cropping . . . [had] been so great at the North and West as even to keep ahead of the occasions for this remunerative investment."²

Largely because of improvident farming methods soils have been depleted and robbed of their fertility. In the first place, agriculture has been carried on "extensively," *viz.*, a man cultivated superficially all he could handle; second, no attempt has been made to rotate crops; third, re-fertilizing has not been practiced. Each one of these methods is distinctly exploitive in character and shows the predominant desire on the part of each farmer to get as much as possible for nothing or almost nothing. As a consequence, soils have lost their fertility.

Since 1870 the wheat crop in forty Illinois counties has constantly decreased. Depleted of their former fertility, farms in these counties have been unable to compete suc-

¹ *Op. cit.*, pp. 68-70.

² Walker, *U. S. Census*, 1880, vol. iii, p. xxxiii. Reprinted from *The Agricultural Review*.

cessfully with newer western lands. From 1899 to 1907, inclusive, the average wheat yield per acre in several states decreased as follows: New York, from 21.2 to 17.3 bushels; Indiana, from 15.6 to 14.4 bushels; Minnesota, from 15.8 to 14.4 bushels; North Dakota, from 14.4 to 10 bushels; Oklahoma, from 14.9 to 9 bushels. During the same period the wheat yield per acre for the United States as a whole decreased from 15.8 to 14 bushels. Diminishing returns are now evident.¹

*Land Speculation*²

Speculation in land has been another form assumed by the exploitive system. It is not essentially different except that instead of drawing wealth out of the land directly the land manipulator extracts wealth indirectly from his fellows' pockets. Land speculation has not been conducted generally on the principle of increasing land values by improvements but of reaping the benefits of an "unearned increment." Thus have men *acquired* wealth on a large scale in distinction from *producing* it.

From the very first land speculation has been a dominating fact in western growth. Ohio was opened by a company which bought land to sell. So has it been at every succeeding decade and in every state. Successive periods of financial strain, stress and crisis have been directly due to this. Much of the difficulty in parcelling out the Public Domain has centered around this exploitive idea. Straight purchase has been common—purchase of large areas by single interests with the idea of holding for sale at enhanced prices. Every state has fallen heir to the conditions reported by

¹ Cf. Hill, "What Must We Do to Be Fed," *World's Work*, November, 1909.

² By this is meant dealing in land futures without respect to values added to the land or real estate by the operator.

Birkbeth. He said of early Illinois and of the West in general:

Land jobbers traverse this fine country like a pestilant blight. Where they see the promise of a thriving settlement from a cluster of entries being made in any neighborhood, they purchase large tracts of the best land, and lock it up in real mortmain, for it is death to all improvement. . . . One of the greatest calamities to which a young colony is liable is this investment of the property of non-residents, who speculate on their prosperity, whilst they are doing all they can to impede it. This holding back from cultivation millions of acres, tends to scatter the population of these new countries; increasing the difficulties of settlers manifold. . . . The western states are suffering greatly under this evil.¹

Original investments compared with profits were insignificant. The credit system of land purchase was, of course, especially encouraging to speculation. From the time cash sale in lots to suit purchaser began in 1820, up to 1840, 76,000,000 acres, an area equal to Kentucky, were sold, over half during the two years preceding the panic of 1837.² This was a wild period during which fabulous returns were expected on insignificant outlays. Speculators reaped large margins in land deals. The rapidly-augmenting western population furnished splendid incentives for this form of exploitation and speculative land profits were enormous. Land prices, therefore, soared far above land values. Market values regularly exceeded the government selling price. Under such circumstances it was even more profitable to speculate than cultivate. The tremendous influence of the West and its enormous population movement in social and economic life is plainly evident.³

¹ *Letters*, p. 54.

² Hart, "Disposition of Our Public Lands," *op. cit.*, p. 173.

³ *Cf. infra.*, ch. i, ii, and iii.

The famous "specie circular" of 1836 which brought a sudden check on this early period of speculation had for its objects, according to Secretary Woodbury, the repression of alleged frauds, the cutting down of opportunities by which speculators could secure a monopoly of public lands to the injury to bona-fide settlers and discouragement of the extension of bank issues and bank credits which were bringing about a critical condition of affairs.¹ The amazing growth of banks in the West at this time belonged to the speculative movements of this period, their real functions often being distorted out of shape for participation in the general program. Avoiding and fighting federal regulation at every point, they strongly favored the *laissez-faire* policy. But the "circular" merely put heavier burdens on the small dealer while the larger dealer with more resources could continue his operations. The West has been an ever-present hope to eastern money seeking fields for highly profitable though speculative investment. Land speculation has obtained continually throughout western development. Its extent was pointed out particularly in Chapter III.

It may be contended that this speculation bears no relation to problems of democracy. However, we must look for results. In the first place, if democracy embodies ideals of equality, it manifestly does not, in principle, at least, permit the enjoyment of wealth except in some proportionate share to that which the individual has himself produced or helped produce. This may be deemed socialistic. True or not, social thought is carrying us in this direction. Speculation in land as we have seen it, however, does not coincide with this principle. It has effectively stimulated the appropriation of a great "unearned increment." Certainly, ap-

¹ Cf. Dewey, *Financial History of the United States*, pp. 228, 229; also Bolles, *Financial History of the United States*, p. 348.

preciated land values in the West have been due little to individuals in comparison with the stimulating effect of the whole population. But individuals, certainly, have reaped great private benefit from a social product. Though the economic and moral status of speculation is not yet quite settled or agreed upon by all, yet we can certainly see in it in western development marks which are of great concern to society and social welfare.

In the second place, because of the opportunities for speculation, men have been stimulated to corrupt public officials, to exploit public office and public funds and to turn public trust into private profit. Besides, at times, there have been strong suggestions of government of the many by the few for the latter's private benefit. Cleveland writes:

These inducements to private speculation and the further fact of there being only one political party tended to lessen the vigil of the people over the affairs of government. Every one was seeking his own fortune and the government was regarded as an important instrument for the attainment of personal ends. As it was hard to obtain a sufficient amount of money to prosecute the speculative enterprises of those who lived in the newly settled regions another banking and paper, or "wild-cat" money craze swept over the country. The public lands were used as a stake for the wildest gambles. The administrative and legislative officers were implicated in large schemes for profit and very usually the public funds in their hands were used as a base of operations.¹ The members of the administration were not averse to making contracts with the government. The credit of the States was obtained for private ends; loans were made and immense government enterprises were pushed as a means of securing lucrative con-

¹ Cleveland adds on the same page: "With collapse of each speculative wave, as in 1820 and 1837, these officers became defaulters. Nearly all of the land agents at one time were in default." See citation below.

tracts. In the new States the location of county seats, seats of State government and other public institutions were the subject of sharp rivalry and official connivance.¹

This is true, not only for the earlier periods of which Cleveland writes, but at successive frontier advances. Or as a recent political platform has put it, government was used more to live on than under. No more severe indictments may be made against American democracy than those falling within our western land and western speculative history. Yet it must be seen that circumstances have been greatly responsible for the conditions. This is our thesis. Rapid population movements induced by a rapacious land hunger, have thrown ideals and ideas into utter confusion and routed control. The observation of Dr. Albert Shaw, that in the occupation and distribution of the Public Domain may be found many of the beginnings of the insidious system of "graft" which has crept into our political institutions and practices seems correct.² We do not wish to suggest that because circumstances have been peculiarly conducive to these miscarriages of justice and the democratic ideal, that the individual is thereby relieved from his own personal responsibility. Apparently, conditions to-day respecting these matters are not much more serious than at earlier periods, except in so far as the ideals prompted by a century of speculation are deeply rooted. We are beginning to take greater note of these matters not because the situation is worse, perhaps, but because, through modern means of publicity, we are more informed. The question is, in part, "How much shall experience guide us?" or, "Shall the heritage of the past still remain part and parcel of our national life?"

All this has produced two effects, at least, *viz*: an indi-

¹ *The Growth of Democracy in the United States*, pp. 268-9.

² Suggested in a lecture delivered at Columbia University, 1907.

vidualistic and undemocratic use of governmental agencies and servants for private ends; and an encouragement of the idea that freedom means license, license for the individual to profit at social expense. On the other hand, a sense of increasing individual responsibility, and a safe-guarding of the interests of all and every part of society is necessary.

Land speculation has appeared in both occupation and mere purchase. Homesteading, itself, has been, more or less, a speculative venture. Speculation has thus become ingrained in the body politic. Land has been taken up faster than actual occupation would warrant. Thousands have been "land poor" holding land for which there was no market and which could not be cultivated. But, on the other hand, enormous fortunes have been created through this land speculation and the foundations have been laid for many of the striking social and economic inequalities which are already appearing in districts lately upon the extreme frontier.

Forest Exploitation

Destruction of forests is a conspicuous example of what the western exploitive principle has produced. This has found its basis largely in the natural conditions which have existed. From the beginning, destruction of forests to clear the way for agriculture has been common practice not only where it was necessary but also where it was absolutely un-called-for. Later, when lumbering itself began on a large scale, down to the present time, the same exhaustive methods have been pursued as in the case of soil exploitation. There has been little or no thought of conservation but, on the other hand, careless disregard of results. This has been due to several factors, among them the extent of forest-land occupation; social toleration and approval of exploitive methods; industrial needs and demands and rapidly-chang-

ing industrial methods; undeveloped institutions for formal and informal control; and a growing individualism ready to profit at any cost and resentful of control or regulation. To this must be added, as pointed out by Mr. Charles Lathrop Pack at the 1910 Conference of Governors, the fact that the system of forest land taxation has placed a burden on forest land as such with the result that exploitation has been more profitable than conservation. He therefore argued for a thoroughgoing revision of the system.¹ Economic stimulus encouraged individualism; competition but strengthened it. Says Bruncken, an unquestioned authority in these matters:

The methods of lumbering in this country have been, from the beginning, of a rough-and-ready sort. Lumbermen have been intent to convert the timber standing on their holdings into cash in the shortest possible time and have cared but little what became of the land after they had removed such timber as they could find a profitable market for. If these lands could be sold, they have sold them for what they would bring. If no purchasers were on hand, they have abandoned them, not caring even to pay the taxes. . . . Rarely did the lumberman bother himself about the future supply of timber, or its reproduction. . . . Lumbermen did not do business for the benefit of posterity or for the general good. Their only object was to reap the largest possible profit in the shortest possible time. They were in the same condition of mind with practically the whole people when they gave no thought to managing their forest property in such a way as to provide for a reproduction of their crop.²

As a consequence of this policy, lumbermen have been keenly put to it to save themselves. Said Sherrard:

¹ Cited from *The Outlook*, Feb. 12, 1910.

² *North American Forests and Forestry*, pp. 96-97.

As early as 1890 lumber companies which had cut over their holdings in Michigan, Wisconsin and Minnesota were compelled either to go out of business or to turn elsewhere for available timber. Then followed the rush to the southern pineries and the great forests of the Pacific Coast. During recent years the production of lumber in the southern pine belt has been enormous, and so great have been the inroads upon the available supply of southern pine that it is a question of only a few years, hastened by the construction of the Panama Canal, when the great production of lumber will shift to the Pacific Coast. The old process of exhausting the supply of timber in a region and then seeking new fields is very nearly over. Already the industry is turning back on its track.¹

Inordinate timber cutting, which has been justified by some because of conditions and circumstances, has occurred for two main reasons, *viz*: the value of land for agricultural purposes and the value of the timber itself. Two most serious effects have resulted from forest destruction for the first-named reason. Natural water supplies for large areas have been seriously affected and forest fires started for small clearings have been allowed to sweep large sections with great social-economic loss. In each case the constant complaint has been that individuals did this irrespective of public rights. The real seriousness of each case, however, has not been fully appreciated until recently. It has been most difficult to exercise control in these directions because of the general failure to perceive social rights; largely, no doubt, because with plenty of land and timber the need of care has not been recognized as necessary. Now that it is, the government has found and is finding it a serious problem to exercise the necessary

¹ Thomas A. Sherrard, "National Forests and the Lumber Supply," U. S. Department of Agriculture, *Year Book*, 1906, p. 447.

control because of the extreme development of personal liberty.

But in lumbering and forestry proper, little or no caution has been observed in timber cutting. Just as the utility of immediate crops has stimulated soil wastage, so the immediate value of cut timber has turned vast areas of former fine timber country into stumpy wastes and barren hillsides. Cutting has gone on faster than timber growth and trees large and small, irrespective of conservative principles followed in Germany and elsewhere, have fallen by the axe and saw. At the same time the lumber-men have carelessly left brush which, taking fire, has caused further great losses over wide areas. If in any feature of our history there has been reckless and senseless waste and individualism encouraged on a large scale it is in this forest exploitation. This has taken place on a purely individualistic basis, and in turn the incentives to exploitation have undoubtedly strengthened notions of personal liberty. Consequently, regulation and control have been contested at every point. Economic pressure has not been such as to cause business men to take conservation seriously. Conservation as we know it to-day and scientific lumbering are being largely accepted by lumbering interests chiefly from economic motives rather than from policies dictated by social welfare. Forest exploitation, first nothing more than individual competition with nature, has now come to have great social significance. It has served to help breed an individualism which rebels at governmental control, winks at public opinion, seeks to profit at social expense, and, under favorable circumstances, assumes to dictate public policy.

Had lumbermen contented themselves with merely cutting on their own land, forest destruction would have involved fewer problems of serious importance than it has. As it is, public and private property has been ruthlessly in-

vaded in all directions and vast sums realized by nothing less than open robbery. Trespassing on public lands by individuals and companies for purposes of illegal lumbering have been serious matters in the General Land Office. The first step to check this was not taken until the presidency of Mr. Hayes, when Carl Schurz, as Secretary of the Interior, vigorously began to prosecute trespassers. We are now familiar with the defiant attitude of many lumbermen. Lack of adequate governmental control and an insidious economic stimulus has undoubtedly encouraged this defiant individualism against which the government has struggled. Added to waste and exploitation, lumber stealing and land depredations on public and private property have been common and glaring. Perhaps in no other phase of our history has there been such open defiance and open violation of the law.¹ At many times the governmental authorities have been helpless and often enough lumbering interests have firmly intrenched themselves within the government offices themselves.

Urging the withdrawal of forest and timber land from entry and requesting suitable legislation, Commissioner Sparks, of the Land Office, in October, 1885, said, after stating that twenty-three special agents had reported on ninety-six cases of trespass involving timber unlawfully cut to the market value of \$3,000,000:

Depredations upon public timber are universal, flagrant, and limitless. Whole ranges of townships covered with pine timber, land along water-courses and railroad lines have been cut over by lumber companies under pretense of title derived through pre-emption and homestead entries made by their employees and afterward assigned to the companies. Steam saw-mills are established promiscuously on public lands

¹ Cf. Bruncken, *op. cit.*, p. 193; also *Land Office Reports*.

for the manufacture of lumber procured from the public domain by miscellaneous trespassers. Large operators employ hundreds, and in some cases thousands of men, cutting government timber and sawing it up into lumber and shingles, which when needed and purchased by local citizens, can only be obtained by them at prices governed by the market value of timber brought over expensive transportation routes from points of legitimate supply. Under cover of the privilege of obtaining timber and other material for the construction of right-of-way and land-grant railroads large quantities of public timber have been cut and removed for export and sale. Immense damage is also inflicted by the destruction of small growing trees and the spread of forest fires resulting from a failure to clear up the land and dispose of the brush from the felled trees, even in cases of authorized cutting. I am advised that depredations of great magnitude have been perpetrated on public timber lands in California by a corporation known as the "Sierra Lumber Company." Suit is now pending to recover the market value of 60,000,000 feet of timber, as a result of the commencement of the investigation of trespasses committed by this company for several years past. The Montana Improvement Company, a corporation stocked for \$2,000,000 and in which the Northern Pacific Railroad Company is reputed to be the principal owner, was formed in 1883 for the purpose of monopolizing timber traffic in Montana and Idaho, and under a contract with the railroad company, running for twenty years, has exploited the timber from unsurveyed public lands for great distances along the line of said road, shipping the product of the joint trespass, and controlling rates in the general market.¹

During the past twenty-five years practically every land-office report has called to the attention of Congress the glar-

¹ *Land Office Report*, House Exec. Docs. 49 C., 1 S., 1885-86, vol. ii, pp. 233-236.

ing timber-land entry and timber cutting and trespass frauds and with each succeeding year the situation has become more acute. The western and Pacific states are now experiencing the same troubles under which earlier districts and the country at large have suffered. Legislation has been inadequate, bunglesome and tardy. Congress has been singularly slow in meeting the situation. This condition of affairs has been offered as a partial excuse for trespass frauds and other serious features connected with forest lands. Time and time again the repeal of pre-emption and stone and timber acts was sought, but unsuccessfully. A centralized yet republican authority seems to have been painfully incapable of acting wisely for reasons we cannot discuss at this point. Timber land on the Pacific coast, worth for the timber alone over \$20,000 per square mile has been selling only recently at \$2.50 per acre or at \$1,600 per square mile.¹ Said Bowers: "Large areas of the finest pine lands have been disposed of by the Government in Minnesota and elsewhere, under the settlement laws. There was no other way by which the timber could be acquired, and so lumbermen hired hundreds of choppers who, in addition to their regular work, were required to enter a tract of 160 acres under the pre-emption or homestead laws, and after a nominal compliance with the law, to deed the land to their employers. After stripping the timber from the land it was abandoned, and over great areas once located for homes one can pass now without finding an occupant. . . . Settlements upon timber lands are rarely made in good faith—that is, to establish a home—because the public lands upon which timber is growing are almost entirely unfit for agriculture and the system puts a premium upon perjury

¹ Bowers, "The Present Condition of the Forests on the Public Lands," *Publications, American Economic Association*, 1891, vol. 6, p. 61.

and wastefulness.”¹ A large proportion of the entries under the Stone and Timber Law have been made indirectly by non-residents for speculation. The great bulk of the entries have shortly passed into the hands of large syndicates with the original entrymen securing barely more than mere wages. “The land laws,” says Sherrard, “while they have provided for the rapid disposal of public timber lands, have tended strongly to the segregation of large holdings of timber land for speculative purposes.”² By 1904 Land Office records showed 55,000 entries made under this act representing an area of about 8,000,000 acres. By this time 10,000,000 acres of carefully selected public timber land had passed into the hands of private owners under this law alone.³ This certainly represents a defeat of the intention of this law. Alleging that \$110,000,000 worth of land in western states, including vast areas of timber land, were fraudulently obtained, Mr. Garfield, Secretary of the Interior, in January, 1909, asked for appropriations aggregating \$1,000,000 to fight for government property.⁴ Thus the democratic objects of certain land laws have been defeated. It is a common assertion by those well-informed that the larger proportion of our national timber areas, aside from government reservations, is held by a few large corporations. It is freely asserted that four-fifths of the nation’s forest lands are now in private hands. They can only be protected by state laws.

The recent Public Lands Commission, in its report transmitted by President Roosevelt to Congress, said :

In addition to the direct loss to the Government from the sale

¹ Bowers, *op. cit.*, pp. 63-64.

² Department of Agriculture, *Year Book*, 1906, pp. 448-449.

³ *Ibid.*

⁴ Dispatch to *New York Times* from Washington, Jan. 1, 1909.

of the lands far below their real value, timber lands which should have been preserved for the use of the people are withdrawn from such use, and the development of the country is retarded until the corporations which own the timber see fit to cut it. The bona-fide settler who comes into a country, the timber resources of which have thus been absorbed, may be very seriously hampered by his inability to secure timber except from a foreign corporation. All of the timber land has often passed beyond his reach, and the development of his farm may be retarded and his expenses greatly increased because he can no longer obtain the necessary supplies of fuel, rails, posts and lumber. As in the case of other laws, instances of the beneficial operation of this act may be cited, but when it is considered from the point of view of the general interest of the public it becomes obvious that this law [the Timber and Stone Act] should be repealed. Many transfers of land patented under this law are made immediately upon completion of title, often the same day, to individuals and companies. In this way a monopoly of the timber supplies of the public land States is being created by systematic collusion.¹

The extent to which timber land has passed into the hands of private individuals and corporations is paralleled by a tremendous amount of illegal cutting and trespass. But this has received popular approval to great extent largely because of the inadequacy of the laws. It has been explained that the government has been continually defeated in its efforts to break up the system through the failure of local juries to convict.² Various court decisions have also made matters more difficult. The Land Office

¹ Sen. Exec. Doc., 58 C., 3 S., No. 189, pp. xvi-xvii.

² Cf. *Report*, Land Commissioner Binger, Aug. 31, 1901, House Docs., 57 C., 1 S., vol. xxii, pp. 99-101; also, *Foreman's Address*, Grand Jury, First District, Territory of New Mexico, June term, 1886, House Exec. Docs., 49 C., 2 S., vol. ix, p. 470.

report for 1902-1903, asserted that during the preceding twenty-five years, trespasses involving the loss of much more than \$60,000,000 worth of timber had been reported, and that only about \$3,000,000 worth had been recovered. But these figures, the report further asserted, represented only a bare fraction of the real trespasses committed.¹ From 1881 to 1887 alone, says Bowers, the value of timber reported stolen from government land was \$36,719,935, and the amount recovered was only \$478,073.² The whole West has been honey-combed with this system. The Public Lands Commission of 1905 reported 12,183 timber depredation cases from 1881 to 1904. These are only "reported cases" it should be remembered.³ Their proportion to real depredations is not known. On July 1, 1890, says Bowers further, there were 282 civil suits pending for the recovery of approximately \$14,000,000 worth of unlawfully-cut timber, and 306 criminal prosecutions for violations of timber laws. The effect was to align a large part of the country's population and "business interests" against the government.⁴ Jury decisions favorable to the government have therefore been difficult to secure. The people have not regarded the laws as protectors of present and future interests but as obstructions to individual and corporate liberty in the immediate present. The larger public weal has been given but secondary thought, if that. Said Bruncken, again:

Even the most reputable lumbermen occasionally indulge in

¹ *Report*, House Doc., 57 C., 2 S., vol. xviii, p. 311.

² *Op. cit.*, p. 68.

³ *Op. cit.*, p. 362.

⁴ *Ibid.*, pp. 68-69. This is but one citation. Daily newspapers are still making similar reports on this and other departments of public land administration.

this little pastime, taking their chances at being caught at it, and having to say to the owners what the stolen material is worth. The greatest sufferers from these depredations are the governments, both state and federal, whose lands are usually less well-guarded than private holdings. Besides, many otherwise fairly honest people have no scruple about robbing or defrauding the government. In the remote and sparsely-settled lumbering regions of the West, the stealing of the government timber has at times reached incredible proportions. . . . Where such depredations were committed by the inhabitants of the region they might be to some extent excused because these men were still imbued with the backwoodsman's notion of early days, that public property is the property of nobody.¹

Summarizing, we find in this phase of western development waste and exploitation of timber and forest lands, fraud in illegal entry, trespass on public and private property and a general avoidance and defiance of law and social interests. Individualism again has been given free rein. Its stimulus has been powerful and the response has been commensurate to the incitement. Consequently, a campaign for national conservation has required time to develop popular approval and is now beginning to succeed, apparently, because conservation has proved not only publicly but privately advantageous. The outcome of this situation in a democracy where individualism has held the field will be extremely interesting and instructive. These policies, to date, have also helped build up huge economic inequalities in a democracy; large "interests" and private individuals have effectively interfered with legislation respecting the Public Domain; and at times the markets have been threatened by monopoly. A population inspired with exploitive policies has found it difficult to perceive or appreciate their logical consequences.

¹ *Op. cit.*, pp. 193-194.

But the country is awakening, if tardily. The Conferences of Governors in 1908 and 1910 have been most significant. New policies in behalf of social welfare must be adopted though our past inheritance offers many difficulties. We may expect more or less opposition to restrictions on personal liberty until economic interests make control more expedient. Individual states will have much at stake. In general, western states have favored an "open policy" in order to assure rapid growth and development. New policies of conservation, however, adopted by recent federal administrations, call for less "states rights" and more of national regulation in the interests, not of single states and sections, but of the whole body politic.¹

Mines and Mining

Mineral resources of the Public Domain have undergone approximately the same treatment as agricultural and timber land. Two features are particularly noticeable, *viz.*: the passing of these lands in large blocks into private hands; and exploitation and waste. Identically the same factors have been at work as in soil and forest exploitation.

Until recently the country has thought that a gift of land—mineral, agricultural or forest—cost the government nothing; on the other hand was of great value to the recipient.² Mineral lands that have sold at ridiculously low prices certainly have been and are of great value to the recipients, hence the great private holdings of coal and iron and other mineral lands. With the West comparatively undeveloped as it is, President Roosevelt, in a Congressional message in 1907, called attention to the fact that already probably one-half

¹ Cf. Editorial Dispatch from Washington to *New York Morning Sun*, Sept. 16, 1909.

² Cf. Hart, "Disposition of Our Public Domain," *op. cit.*, p. 178.

of the total area of high-grade coals had passed under private control, and that including lignite deposits these private holdings would aggregate not less than 30,000,000 acres of coal fields. He also called attention to the claim that so large a part of the coal in some of the western states had already passed into the hands of certain large corporations that private parties who would be willing to operate under a leasing system advocated by himself and others would have great difficulties to compete.¹ Moody cites President Schwab as testifying before the Industrial Commission that the following properties were owned, controlled or represented by the United States Steel Corporation:² Iron and bessemer ore properties, value \$700,000,000; coal and coke fields, (87,589 acres) value \$100,000,000; natural gas fields, value \$20,000,000; limestone properties, value \$4,000,000. Again, testifying before the Commission, President Schwab averred that the corporation controlled 80 per cent of the great iron-ore supplies of the Northwest. These ores, he said, are nearly altogether used for steel products in the United States.³ The same corporation, he further testified, owned also about 60,000 acres of Connellsville coal, valued at not less than \$60,000 an acre. This is the whole supply.⁴ The private ownership, control and exploitation of anthracite deposits is common knowledge. These are typical examples of the way in which, under modern systems of business organization, huge properties have passed into private control. The same may be said of large areas of copper, gold, silver, lead and other deposits. Incorporated companies account for 86.3 per cent

¹ Cf. Sen. Doc., 59 C., 2 S., vol. v, no. 310.

² *The Truth about Trusts* (1904), p. 164.

³ Industrial Commission, *Report*, 1901, vol. xiii, p. 471.

⁴ *Ibid.*, p. 464.

of the value of mine and quarry products.¹ The further tendency of such large holdings of natural resources is to monopoly.² This concentration has taken place in a very short period. Through straight purchase of large areas of mineral lands at low rates and illegality in entry and fraud this has largely come about. Some of the most valuable properties have been acquired at the most ridiculous compensation and many at practically no compensation. The recent disclosures involving valuable areas in Alaska and other western districts is enlightening and instructive.

From at least two points of view these developments should receive critical examination from the standpoint of democracy. Obviously, mineral wealth once extracted, cannot be replaced. Consequently, holders of mineral lands are possessed of a monopoly of these supplies and the more concentrated the ownership the greater the monopoly. Now monopoly is antagonistic to the basic principles of democracy when used for the benefit of the few at the expense of the many. Of all forms of monopoly, perhaps, the least justifiable is that of natural resources, yet our public-land policies have permitted, and indeed, encouraged this. There has been but little discrimination and practically no forethought in western development, and tendencies which are now closely scrutinized have passed unnoticed or unheeded. The individual has been free to come and go irrespective of public weal. Consequently, the rapid increase of wealth in a few hands reported by many careful students has been directly promoted and to-day we observe the distance between those who have and those who have not, constantly

¹ Cf. 1902 Census, *Special Report on Mines and Quarries*, p. 66.

² Cf. Watkins, "The Growth of Large Fortunes," *Publications American Economic Association*, Nov., 1907, Third Series, vol. viii, pp. 88-93.

increasing. In other words, equality is giving place to inequality, economic, social, and indeed political, if in political we include control or influence of governmental agencies by "business interests." There has been an enormous production of wealth but at the same time there has been a corresponding development of "coal-barons," "oil-kings," "iron-masters" and "money-nobility."

The other feature is that of passing title to natural resources in perpetuity. Like similar privileges in the granting of public franchises, this policy is undergoing a readjustment in the public mind and recently (1907) we had an executive communication recommending to Congress "the enactment of such legislation as would provide for title to and development of the surface land as separate and distinct from the right to the underlying mineral fuels in regions where these may occur, and the disposal of these mineral fuels under a leasing system on conditions which would inure to the benefit of the public as a whole."¹ The adoption of a new policy similar to that in other countries providing for a leasing system will, at the best, only partly remedy the evil of handing over into private hands without let or hindrance vast areas of the most valuable national assets. The rapidity of western development has been such, however, that no other policy seems to have been generally thought of, much less followed, though indeed Tennessee declared in 1796 that "perpetuities and monopolies are contrary to the genius of a free state, and shall not be allowed."² But to bind posterity in perpetuity through deeds to natural resources is extraordinarily important in a democratic state. Conditions have been such, however, that this practice has been encouraged. The increasing control of natural re-

¹ *Message*, President Roosevelt, *op. cit.*, p. 1.

² "Declaration of Rights," *Constitution* 1796, sec. 23.

sources by private interests is largely due to the general popular policies which have been followed in the distribution of the Public Domain. What is now regarded as public property to be held for public benefit has been generally turned over to private possession and control in perpetuity and at ridiculous rates of compensation.¹ In the occupation of public lands little thought has been given to the strategic position — economic, social and political — which possession or control or both, of vast stores of wealth in perpetuity now holds and will continue to hold even under the most careful regulation.

The exploitation and waste of mineral resources, like that of soil and timber, has undoubtedly been encouraged by the character of western development. But exploitation of natural resources has not been peculiar to America. The whole world has undergone this during the past century. In America the process simply seems to have gone much further than anywhere else. The reason is largely found in "western development." Incentives to conservation and care have been *nil*. On the other hand, it has been highly profitable to "skin" and waste the supply. According to Andrew Carnegie whose mining connections are well-known, nearly 4,000,000,000 tons of iron ore were mined from 1820 to 1895 by such wasteful methods that some 6,000,000,000 tons were either destroyed or allowed to remain in the ground never to be accessible, even with modern methods of mining. During the next ten years [1896-1905], as much was mined as during the preceding seventy-five years and 3,000,000,000 tons were wasted.² In coal

¹ Cf. Market prices of agricultural, timber, swamp and mining lands, *infra.*, ch. ii.

² Conference of Governors, Washington, 1908, *Report* on "The Conservation of Ores and Related Minerals," *op. cit.*, p. 15.

production, the same gentleman has said: "with continuation of the wasteful methods of mining, the consumption and destruction during that one year [1895] would equal our total useful production up to the present date."¹ These statements are strengthened by the United States Geological Survey which reports that the quantity of fuel left unmined in the ground and beyond recovery amounts to from 40 to 70 per cent of the total deposits in different fields.² The comparative ease of locating on and working mineral deposits and the apparently inexhaustible quantity yielding large immediate returns have encouraged these exhaustive methods. They have met with public approval.

A good illustration is that of the Pittsburg coal bed owned by the Pittsburg Coal Company, which, during a recent year exhausted 2,241 acres of its 143,000 acres of coal land, obtaining, on an average, 8,000 tons therefrom per acre, but leaving in the ground 5,000 tons as waste and mixed coal.³ This may probably be considered a typical case. "Market prices," "cost of production," "methods of mining," *et cetera*, may be offered as explanations of this practice, but the fact remains that "skinning" the land for immediate profit without thought of conservation has been the prevalent idea.

Exactly in the same way have natural supplies of gas and petroleum been exploited. The struggle to control and use this form of wealth is an important chapter in our national history. But even with its great value and ultimate limited supply, natural gas has been wasted, according to White, from uncontrolled gas wells, oil wells, giant flam-

¹ *Op. cit.*, p. 16.

² Cited by White, State Geologist of West Virginia, Governors Conference, *Report*, "The Waste of Our Fuel Resources," *op. cit.*, p. 32.

³ *Ibid.*, pp. 33-34.

beaus, leaking pipe lines and in many other ways, and but recently, at the rate of not less than one billion cubic feet or an equivalent of 160,000 barrels of petroleum daily.¹ Ten times its equivalent in heating power is wasted for every barrel of oil taken from the earth. More than half of this could have been and might be avoided by proper care and control. The large oil-producing interests have plainly been negligent. Yet Indiana is the only state regulating oil production by statute while other states permit this awful waste, says this authority.² As in the case of other natural resources, petroleum and natural gas products, though limited, have been so cheap and the supply so great that but little thought has been given to their conservation. The increasing value of by-products will promote care, however. The exploitation and waste of these stores of most valuable natural wealth have been carried on by private hands. Individuals have been free to operate at their own discretion. Regulation has been thought unnecessary and contested when suggested. In this field we again observe individualism—private and corporate—at work.

For example, the individual taps a common supply of oil or gas by a well sunk on private property. If he wastes the product he necessarily wastes the common or social supply. Society at large, in that case, suffers. An instance is cited by White: "From one well in eastern Kentucky there poured a stream of gas for a period of twenty years without any attempt to shut it in or utilize it, the output of which, it has been figured, was worth at current prices more than three million dollars." He further adds:

Practically the same conditions characterized the first 25 years of Pennsylvania's oil and gas history, and the quantity of

¹ *Op. cit.*, p. 28.

² *Ibid.*, p. 29.

wasted gas from thousands of oil and gas wells in western Pennsylvania is beyond computation. In my own state of West Virginia, only eight years ago, not less than 500 million cubic feet of this precious gas was daily escaping into the air from two counties alone, practically all of which was easily preventable, by a moderate expenditure for additional casing . . . yet . . . agents of these oil magnates have not only permitted this destruction of the nation's fuel resources to continue, but they have prevented by every means in their power the enactment of any legislation to stop this frightful loss of the best and purest fuel that nature has given to man.¹

This question of individual liberty in such and similar matters is a vital one in a democracy. We may hope for the latter to be the ideal form of society under which there will be a maximum of good and a minimum of evil. Yet a balance must be struck somewhere between individual liberty and social control in the interest of social welfare. Some control is necessary, though how much is a different matter. At best, the conserving forces in America have moved slowly. This has been true because of an extraordinary desire for freedom, and because of the conditions which have made the strictest control practically impossible and "apparently" unnecessary. Perhaps this was in his mind when Mr. White exclaimed: "Why should a few oil producers in their insane haste to get rich quickly or add to fortunes already swollen beyond safety to the Republic be permitted thus to despoil the entire country of its choicest fuel?"² It is perhaps not true that waste has produced wealth, nor that the rapid increase of wealth in a few hands has necessarily increased waste, but it is probable that, with the exception of wealth created by unjust or

¹ *Op. cit.*, p. 28.

² *Ibid.*, p. 29.

monopolistic methods peculiar to certain forms of recent business organization, there is the closest connection between a rapid accumulation of wealth and exploitation.¹ At all events, formally and informally, the country has permitted and generally endorsed the *laissez-faire* policy in exploitation and waste of natural resources.

Briefly, then, our national and social policy in connection with the exploitation of mineral resources has resulted in the rapid creation of large fortunes; has lessened the "economic chances" of succeeding generations; has encouraged waste; has made the adoption of conservative policies doubly difficult; and has strengthened an individualism and desire for personal liberty without consideration of their relation to the responsibilities of democracy. This has made the problems which democracy must solve doubly difficult.

Fencing of Public Lands

While evils existed practically from the first in the disposal of public lands, and speculation in land futures on an intensely individualistic basis was rife in Indiana, Illinois and other central states, the most glaring misappropriations of the Public Domain appeared after the population movement had set well over the Mississippi River. Great areas of grazing and farm lands have been fenced in continually by "cattle kings." This unlawful fencing was a weighty matter for a long time and in results indeed still continues to be. Commissioner McFarland, of the General Land Office, pleaded for something to be done in his annual report of 1882,² and again the next year he said:

The practice of inclosing public lands by private persons and

¹ Cf. Spahr, *Present Distribution of Wealth in the United States*, ch. ii; also, Sherman, "The Owners of the United States," *Forum*, Nov., 1889, vol. 8.

² *Land Office Report*, Exec. Doc., 47 C., 2 S., vol. x, p. 13.

companies for exclusive use as stock ranges is extensively continued in States and Territories west of the Mississippi River. These ranges sometimes cover several hundred thousand acres. Special agents report that they have ridden many miles through single enclosures, and that the same often contain much fine farming land. Summer and winter ranges in different sections of country are frequently controlled in the same manner by the same persons, who cause their cattle to be driven from one to the other, according to the season, keeping the whole of the land under fence and preventing the stock of smaller ranchmen from feeding on any portion of it. . . . Legal settlements by citizens of the country are arbitrarily prohibited, public travel is interrupted and complaints have been made of the detention of mails through the existence of these enclosures. Reports have been received of the use of violence to intimidate settlers or expel them from the enclosed lands.¹

This is a commonplace in the West. Newspapers are filled with accounts of these struggles.

In his report of 1882, the Commissioner had said: "It appears, also, that in some cases State laws have provided for a nominal tax upon 'possessory rights,' the effect of which is represented to be to locally legalize this infringement upon the laws of the United States; and citizens who have attempted to make settlements and entries within the limits of these ranges in accordance with the land laws of the United States have been ousted by judicial decree."²

The process by which huge areas of land fell under the control of a few men was simple. They easily took possession of valleys, water-courses, springs or other water-rights, acquiring the same, in innumerable cases, by fraudulent or fictitious entries under the pre-emption, homestead, or desert-land laws. Then controlling the water, they con-

¹ Exec. Doc., 48 C., 1 S., vol. x, p. 30.

² Exec. Doc., 47 C., 2 S., vol. x, p. 13.

trolled the land, fenced it in according to their own inclinations and used their claim of prior occupation to keep off bona-fide settlers legally or otherwise. They justified the system by asserting that cattle-raising demanded large holdings. "Legally" is used advisedly, for according to Supreme Court decisions, followed by the Supreme Court of California, it was held that "no right of pre-emption can be established by a settlement and improvement on a tract of public land which is in the possession of one who has enclosed, settled upon and improved it."¹ In other words, the right of pre-emption was denied when the territory in question was in actual possession of another without a question as to whether possession was lawful and equitable or not. This was discouraging in the extreme to the settler. The courts prevented him from enjoying that which he considered his equitable share of public property. He naturally deemed the system pernicious. First-comers secured the most favorable locations in the richest portions of the country and holding them, controlled wide areas. Barons of the Middle Ages were no greater lords of huge domains than these "cattle kings." By fencing these lands they were made all the more closed to occupation. Though courts held fencing illegal, the delay and trouble incidental to proceedings in equity often prevented the equitable operation of the law. Congress took no steps to remedy matters though constantly solicited by private citizens and the General Land Office.

The "fencing" operations have extended generally through Montana, Idaho, Wyoming, Nevada, Colorado, New Mexico, Arizona and portions of Kansas, Nebraska, the Dakotas, California, Texas, Oregon, Washington and

¹ Cited by Donaldson, *Public Domain*, p. 1169, in reference to cases of *Atherton vs. Fowler*; *Hosmer vs. Wallace*; *Trenmouth vs. San Francisco*.

Indian Territory—practically the whole portion of country west of the Missouri River to the Pacific. The following list of unlawful enclosures in 1887 suggests, in part, their size and character. Only a few cases are cited, chiefly the largest.

PARTIAL LIST OF PUBLIC LAND FENCING CASES UNDER INVESTIGATION BY THE
LAND OFFICE, 1886.¹

States	Acreage Involved in Recommended Proceedings	Acreage Reported Cleared of Fences	Awaiting Investigation or Action
<i>Colorado</i>			
John W. Prowers.....	75,000		
Chick, Brown & Co.....	27,000		
Voorman & Mattice.....		50,000	
Arkansas Valley Land and Cattle Co.....	627,089	627,089	
Prairie Cattle Co. (4 enclos- ures).....	36,733	36,733	
H. H. Metcalf.....			200,000
Henry Berris.....			20,000
Hall & Barela.....	38,000	38,000	
Prairie Cattle Co.....			260,000 ¹
John G. Haas.....	40,300		
Levisay Bros.....	62,700	62,700	
E. C. Tolle.....	35,200		35,200 ²
Cleveland Cattle Co.....	300,000	300,000	
Ada & Durkee.....			50,000
<i>Kansas</i>			
Comanche Cattle Pool.....			192,000
Stephen A. Bullard.....	104,000		
Forrester Cattle Pool.....	81,000		
Smoky Hill Cattle Pool.....	133,000		
Clark, Matthews & Stoller.....			592,000 ¹
Kibbe & Edwards.....		85,000	85,000 ²
<i>Nebraska</i>			
Brighton Ranch.....	125,000	83,000	
W. J. Wilson.....	64,000	64,000	
J. B. Hunter.....			100,000
Lakota Stock Co.....	61,968 ¹		
<i>New Mexico</i>			
Cimmaron Cattle Co.....			485,000
<i>Public Land Strip</i>			
Northwestern Land & Cattle Co.....			128,000

¹ *Land Office Report*, House Exec. Doc., 49 C., 2 S., vol. 9, p. 456, *et. seq.*

² Reported as removed or practically so without since being reported by agent.

To be sure many of these fences were torn down and the land, much of it in fine agricultural regions, was opened to settlement, but not before tremendous struggles had been waged by the government. Hundreds and possibly thousands of huge blocks, furthermore, gained by methods best known to the holders, have not been recovered and never will be.¹

¹ Reports from Land Office agents in 1886 will indicate what was taking place in the West. A. R. Green, inspector, stated that by the establishment of vast stock ranches in Colorado, Dakota, Montana, Nebraska and New Mexico, all the valuable grass and watered land was secured. The Register and Receiver at Garden City, Kansas, reported in 1884 that huge areas between the Arkansas River and the southern Kansas line were passing into the hands of large cattle and land companies. These lands were entered fraudulently in large part, the evidence seemed to show, but the papers were so correct on their face that even the local land office could scarcely detect the fraud. Land offices have been co-conspirators in many cases of fraud. From the Register and Receiver, McCook, Nebraska, November 26, 1884, came the statement: 'all or nearly all the lands bordering on streams have been taken under the homestead, pre-emption and timber culture laws. Proofs are made and we hear it reported that deeds are executed soon after to other parties, but whom we have no means of knowing at this office—presumably the cattle companies.' Three hundred thousand acres were fenced in in South Park, Colorado, in 1884, which had the effect of keeping out bona-fide settlers. J. L. Prichard, special agent, reported: 'A stranger hunting for a home would hardly have the courage to enter an enclosure, knowing that by so doing he at once makes an enemy of men whom he supposes from the number of acres enclosed, to be rich and powerful.' A. F. Ely, special agent, reported that up to December, 1883, he thought three-fourths of all the entries made on the Gage lands in Kansas were fraudulent and filed in the interest of stockmen. Not one-twentieth of the lands were actually occupied by actual settlers up to 1883. The same agent reported, also, that in the Arkansas Land and Cattle Company's enclosure of 600,000 acres there were not more than half a dozen inhabitants. This represented an area of over 937 square miles, three-fourths the size of Rhode Island. All the water privileges were pre-empted and hence the pre-emptors controlled the whole territory. He also reported that three-fourths of the Pueblo, Colorado, land district was fenced and water privileges held; and that commencing at the east line of the

The trouble was two-fold. By fencing, equitable distribution was prevented; and by controlling watered lands and water-rights, the individual, acting singly or for others, greatly extended his power and control. The General Land Office held, rightly, that grazing land could be taken up in relatively large blocks and that a relatively large area of dry land was equitably no greater portion than a much smaller piece of agricultural land. The Desert Land Act was provided to meet this exigency. But the Land Office did insist that holdings, for the most part, were more than extremely liberal. Thirty-two cases of illegal fencing, alone, aggregating 4,431,980 acres, or 6,925 square miles, averaging 138,500 per enclosure, were reported by the Land Office in 1884, and many complaints were on file of other "immense tracts" illegally occupied but which could not be investigated.¹ Thus had individuals and companies secured a foothold on public property. It has been a constant struggle and only partially successful, to dislodge them. Land Commissioner Sparks, in his first report to the Secretary of the Interior, October, 1885, was especially vigorous in his denunciation of the overwhelming frauds in the distribution of public lands and pointed out the fencing frauds as particularly glaring. He held that land entries were fictitious and fraudulent on a large scale and largely made through concerted methods adopted by organizations that had parceled out the country among themselves and were maintaining seized possession of unentered lands by boundaries and enclosures defended by armed riders and

state there was a fenced area of 600,000 acres, followed by several others westward of like extent which not only meant vast private holdings, but also prohibited settlement and free distribution. Such evidence may be piled up indefinitely. Cf. House Exec. Doc., 49 C., 1885-86, 1 S., vol. xi, pp. 200-216.

¹ *Land Office Report*, 1884-85, Exec. Doc., 48 C., 2 S., vol. xi, p. 17.

protected against immigration and settlement by systems of espionage and intimidation.¹ In no part of western occupation has there been such struggle and competition as in the fencing and holding of grazing lands.

The Public Lands Commission in 1905 reported:

At present vacant public lands are theoretically open commons, free to all citizens; but as a matter of fact a large proportion have been parcelled out by more or less definite compacts or agreements among the varied interests. These tacit agreements are continually being violated. The sheepmen and cattlemen are in frequent collision because of incursions upon each other's domain. . . . There are localities where the people are utilizing to their own satisfaction the open range, and their demand is to be let alone, so that they may parcel out among themselves the use of the lands; but an agreement made to-day may be broken to-morrow by changing conditions or shifting interests. The general lack of control in the use of public grazing lands has resulted naturally and inevitably, in over-grazing and the ruin of millions of acres of otherwise valuable grazing territory. Lands useful for grazing are losing their only capacity for productiveness, as of course, they must when no legal control is exercised. . . . Prompt and effective action must be taken, however, if the value of very much of the remaining public domain is not to be totally lost.²

The Act of February 25, 1885, designed to shut off abuses merely produced the results customary in our Public Domain history. By a simple expedient the cattlemen often evaded the intent of the law. This expedient was the incorporation of ditch companies. By appropriating all the water available they could debar any

¹ House Exec. Doc., 49 C., 1885-86, 1 S., vol. xi, p. 201.

² *Op. cit.*, p. xxi.

settler from using water either above or below a large holding and hence practically keep him or other competitors off even public land, by making the land he wished to enter valueless. Wyoming saw this practised on a large scale. Special agent, James A. George, reported in May, 1886, a condition of affairs not only affecting Western economic but also political life. This indicates another phase of the situation. He said:

The late legislature [Wyoming] was under the control of the cattlemen, and they passed an irrigation law that permits this, [*viz.* ditching] and unless Congress, by appropriate legislation, secures the waters of each stream to the land that properly belongs to the watershed of each stream, and in each case apportions the water to the lands within the shed of each stream, the gigantic water companies now being organized by cattlemen will have appropriated all the water in the streams, and control for a century at least all public domain and have free pasturage for their cattle, to the detriment of the Government and the absolute prohibition of agriculture.¹

But recently, 1902, Mr. Hitchcock, Secretary of the Interior, commenting on the efficacy of this law which provided for the institution of civil proceedings for the removal of fences and criminal prosecutions for trespass, observed: "notwithstanding the passage of said act and the efforts of this Department to enforce it, the abuse has continued, and the beneficiaries thereof have grown so bold and arrogant that they practically defy the efforts of the Department and the Government to execute the law."² At the same time he reported that the greater part of the Public Domain in Nebraska was under fence illegally and that the

¹ House Exec. Doc., 49 C., 2 S., vol. ix, pp. 471-2.

² House Doc., 57 C., 2 S., vol. xviii, p. 11.

Homestead Law was practically a dead letter. In New Mexico, 1,079,000 acres of public land were reported within the alleged unlawful inclosures of the Inter-State Land Company. The President had authorized an extension of time for removal of fences, but in an attitude of defiance and contempt, recites Secretary Hitchcock, the company refused to remove the obstructions and hoped by legal processes to continue them indefinitely.¹ The congressional debates of recent years in which western senators have prominently participated are still fresh history.

Related to the foregoing are two interesting features of increasing importance. One is the rapidly appreciating value of these lands through new methods of dry-farming and irrigation; the other is the probable increase of land tenantry. This tendency toward increase in tenantry noted in the decade 1890 to 1900 is not gratifying in view of the fact that "free land" has been the dominant note in American life for over a century.² Though much of the land, according to Land Office reports and common knowledge, which has passed to patent as grazing land in reality was adapted to agricultural purposes, lack of transportation facilities, the existence of better land, and a sparse population, delayed for some time its cultivation. To-day, however, large areas of what was once grazing land are being successfully turned to agriculture, and consequently huge fortunes are being realized. This is further evidence of the lack of foresight in western development, especially in connection with the increasing systems of irrigation. Land formerly worth nothing is now being sold at almost fabulous prices if it can be bought at all. Largely through

¹ House Doc., 57 C., 2 S., vol. xviii, p. 12.

² Cf. 12th Census. vol. v, p. xiv; also Watkins, *op. cit.*, ch. iii, especially.

efforts of the Reclamation Service great districts recently desert land and fit for practically nothing, apparently, are being turned into rich farming sections by means of a few inches of water per season. But early-comers held large acreage and secured control of water-rights. Consequently irrigation companies and farmers' associations, through controlling a major part of the land and water, can often dictate policies. Further than this, prior water-rights make it difficult for later land patentees to secure similar privileges. We may probably look for an increased tenantry system growing up in irrigation districts the land of which has already passed into private hands. These lands are most valuable and we may expect an enormous settlement in and development of these irrigation areas, but how remains to be seen.

"Bonanza farming" with its evil effects of "soil-cropping" has been possible through private title to large districts. We may expect to find its counterpart in the division of former large ranches into smaller farms to be sold at greatly enhanced prices to new settlers. Land companies will profit in two ways, *viz.*: by the increased population available at harvest and other times for farm labor; and by appreciation of lands which will be caused by the increased population itself and the introduction of transportation facilities. Large fortunes are being built up this way and by credit sales of land a peculiar form of land-holding is appearing in various sections. The case of one man of national prominence who but recently announced that he would turn his ranch of 100,000 acres in a southwestern state over to agriculture, land formerly worth practically nothing, except for grazing, suggests the new social and economic adjustments which we may expect in the West. It will probably be impossible for acreage of this extent to be cultivated otherwise than through some form of tenantry unless the

land is sold outright, a course to which few men will resort immediately.¹

Water-Power and Water-Power Sites

The fundamental difference between the threatened alienation of valuable water-power sites in the West, concerning which newspapers and periodicals have recently had much to say as well as public officials, and the fencing of land, against which the Land Office has struggled, is that whereas in the latter case water supplies, springs, streams, *et cetera*, were sought in order to control the land, land has been and is now sought in order to control the water or potential horse-power. Many important sites have already passed into private hands and valuable public utilities placed beyond adequate social control. Lack of foresight, personal and corporate economic desire, inadequate land laws and legislation and natural and social conditions in the West, have largely made this possible. Under the Stone and Timber Act, under the mining laws, under the Desert Land and Homestead Acts and in various other ways, most valuable water-power sites have been taken up. The recent controversies at Washington in the Department of the Interior over the withdrawal of public lands have been partly due to the effort to conserve public interests by making the further alienation of valuable power sites impossible or by controlling entry on the same. Whatever the merits of either side of the dispute have been and are, the fact remains that most strenuous efforts have been made by private individuals and corporations to secure possession of these most valuable portions of the Public Domain. In fact the charge is that under the existing system of public-lands administration valuable power sites and other valuable Public Domain

¹ Cf. *Report*, Public Lands Commission, 1905, *op. cit.*

holdings play easily and directly into the hands of monopoly. But recently has the importance of this question been realized not only for the immediate present but for future years. Much of the future development of the West, particularly in the mountain states, will depend on power—electricity, generated by water-power. Consequently, water-power sites and generating plants in private hands, as much or more so than railroads, can dictate the future of large districts over which this power may be distributed.

There is probably no question before the country to-day, not even excepting the problem of inland water-ways, as vitally important as this one of water-power and water-power sites. It is a question whether the people will hold them for development in proper ways for general social welfare or will hand them over to private control for primarily private benefit. It is a question of what restrictions will be thrown around the acquirement of such valuable privileges. The peculiar interest in these matters lies not only with policies regulating the future use of these privileges but in their connection with past national policies and public opinion. It is significant that a most bitter fight is being waged against the Department of the Interior on policies of conservation. Secretary Ballinger, himself, in explaining the restoration of about a million acres of land to entry said: "The restoration to entry of more than a million of acres of land not needed to protect the power-sites allayed widespread discontent, and thus avoided unnecessarily making enemies for the conservation policy. . . . It is obvious that it is highly important for this department to handle the matter with tact and make as few enemies as possible."¹ The withdrawal of large areas by

¹ Cf. *New York Daily Tribune*, Nov. 8th, 1909. Reported interview with the Secretary.

Secretary Garfield raised a storm of impatient protest which can probably be interpreted best in the light of the thesis which we have been stating. Land is sought with an avidity perhaps never witnessed before and restrictions are vigorously contested. Besides, interests seeking these valuable power-sites undoubtedly resent any interference with their plans. Thus we have an old problem in a new form—a situation realized none too soon, for damage has been done already. It will be interesting to watch the part played by democracy in this drama.¹

¹ An increasing periodical literature is available on this subject. The following are a few references for recent months: "Coming Water Power Monopoly," *World's Work*, June, 1909, 18:11638-9; "Real Monopoly that Threatens the People," *World's Work*, Feb., 1909, 17:11191; "Water Power Wealth," *Outlook*, Apr. 25, 1908, 88:898-9; "Preservation of Water Powers," *Outlook*, Sept. 26, 1908, 90:142-3; Baker, "Necessity for state or federal regulations of water power development," *Annals, American Academy of Political and Social Science*, May, 1909, 33:566-82; Althouse, "Water-power in the Mississippi Valley," *Annals, American Academy*, Jan., 1908, 31:163-77; Leighton, "Water Power in the United States," *Annals, American Academy*, May, 1909, 33:535-65; Jones, "Power: wizard of settlement," *Canadian Magazine*, April, 1909, 32:491-9; Welliver, "National Water-power Trust," *McClures*, May, 1909, 33, 35-9; Perrine, "Hydraulic Power Development on the Pacific Coast," *Cassier's Magazine*, Mar., 1909, 35:620-5; "Government Control of Water-power," *Outlook*, Mar., 1908, 88:582-4; Von Schon, "Use and Conservation of Water-power Resources," *Engineering Magazine*, Sept., Oct., Dec., 1908, 35:825-36; 36:81-8; 425-34; Mathews, "Water Power and the Pork Barrel," *Hampton's Magazine*, October, 1909; Agnes C. Laut, "The Fight for Water in the West," Series of four articles, beginning Oct. 16, 1909, *Colliers' Magazine*. For a statement of the government's policy see open letter of Gifford Pinchot, United States Forester, to Col. H. L. Higginson, of Boston, director of the General Electric Company, *New York Daily Tribune*, Nov. 1, 1909.

CHAPTER VIII

INDIVIDUALISM AND THE PUBLIC DOMAIN (CONTINUED)

Survey Frauds

Government reports may be offered in evidence on the overwhelming amount of fraud in Public Domain history, including the surveying system itself. Investigations at different times have discovered serious conditions of neglect. After making sweeping investigations, Commissioner Sparks, of the General Land Office, said in his report of October 22, 1885, that of twenty-two Colorado townships, seven were wholly fraudulently surveyed and in the rest the surveys amounted to practically nothing.¹ Large sums were paid out by the government for work never done. Wherever investigations were made, more or less of this was said to be found. In the same report the Commissioner remarked that his office "was a mere instrumentality in the hands of the surveying rings."² The Commissioner further claimed of the deposit law of 1862, and amended in 1879 so as to assist in the equitable distribution of public property, that it was an unmixed evil.³ He said:

It has promoted unnecessary and improvident expenditures, premature and worthless surveys, the corruption of public officers, and the unlawful appropriation of vast bodies of the

¹ House Exec. Docs., 49 C., 1 S., vol. xi, p. 165.

² *Ibid.*, p. 166.

³ *Ibid.*, p. 163.

most valuable unsettled public lands. . . . Wealthy speculators and powerful syndicates covet the public domain, and a survey is the first step in the accomplishment of this desire. The bulk of deposit surveys has been made in timber districts and grazing regions, and the surveyed lands have been immediately entered under the timberland, pre-emption, commuted, homestead, timber-culture, and desert-land acts. So thoroughly organized has been the entire system of procuring the survey and making illegal entry of lands that agents and attorneys engaged in this business have been advised of every official proceeding and enabled to present entry applications for the lands at the very moment of the filing of the plots of survey in the local land offices. Prospectors employed by lumber firms and corporations seek out and report the most valuable timber tracts in California, Oregon, Washington Territory or elsewhere, settler's applications are manufactured as a basis for survey; contracts are entered into and pushed through the General Land Office in hot haste; a skeleton survey is made and full field-notes improvised for plotting; the final acts of approval and acceptance are expedited; entry pages, made perfect in form by competent attorneys, are filed in bulk, and the manipulators enter into possession of the land and exploit its timber. . . . In a single case reported by special agents in California it was discovered that an English firm had obtained 100,000 acres of the choicest redwood lands in the state, worth perhaps an average of \$100 per acre, while the cost of procuring surveys and fraudulent entries did not probably exceed \$500 per quarter section, or at the rate of \$3 per acre. In the same manner extensive coal deposits in our western territory are acquired in mass through expedited surveys, followed by fraudulent pre-emption and commuted homestead entries. A still broader field of illegal appropriation is opened through the premature survey of vast bodies of land monopolized by cattle ranges.¹

¹ House Exec. Docs., 49 C., 1 S., vol. xi, pp. 167-8.

Here we have a picture of what a comparatively unlimited *laissez-faire* policy produced—appropriation, much of it illegal, of the Public Domain on a wholesale scale. A philosophy of personal liberty encouraged by favorable circumstances and conditions produced its own fruits. As was said in the Land Office Report of 1885: "It seems that the prevailing idea running through this office and those subordinate to it was that the government had no distinctive rights to be considered and no special interests to protect; hence, as between the government and the spoilers of the public domain the government usually had the worst of it. I am satisfied that thousands of dollars of claims," continued the Commissioner, "without foundation in law or equity, involving millions of acres of public land, have been annually passed to patent upon the single proposition that nobody but the government had any *adverse* interest."¹

The question therefore may be raised, "What is the function of government in a democracy?" The usual thought may be that it is an organ or agent created somehow, for social welfare and public interest, or in the interest of the citizens which make up the body politic. But the "government" is not an abstract entity apart from and possessing different interests from those over whom it operates. As long as the "government" is regarded in the abstract, rather than personified as the agent of the people themselves, acting together, undoubtedly there will be difficulty. Herein we find confused notions respecting the state and the government. Men who would scorn to commit a dishonest act affecting an individual, even though a stranger, have had, apparently, as far as public interests in the Public Domain are concerned, no hesitation in evading law meant for the control and good of

¹ House Exec. Docs., 49 C., 1885-86, 1 S., vol. xi, p. 155.

all, or in following a policy inimical to a political institution erected for their own interests. Sovereignty is thus attacked in its stronghold.

The question of fraud in connection with public land is most important. Laws were devised, ostensibly at least, to carry out democratic principles. Yet practically, on a large scale, they were made of non-effect, through either avoidance or non-application. Both have taken place on a large scale. We raise a question, therefore, respecting the effect of law in a democracy where the people, ideally at least, create and give substance to that law. Conditions in America have been more or less conducive to an avoidance of law, at least specifically if not generally, as has been indicated. The constant taking-up of lands and the elimination of available territories have stimulated "capitalists" and others to make unusual efforts to secure control of outlying districts to profit from them when the wave of population drew these districts within its influence. The pursuit of land has been a headlong race and legal control has constantly broken down in the excitement. Settlement laws have been overturned and administrative regulation has been resented, wherefore has come, in large part, vigorous objection in various quarters to federal or state control respecting a public's natural resources.¹

Swamp Land

Individual exploitation of the people's property has been characteristic in the opening of the West. But states as

¹ Much of the territory and lands fraudulently entered and occupied by companies of all kinds, cattlemen and through false survey have been reclaimed through administrative and legal processes. In these cases the difficulty was temporary. There is plenty of evidence, however, that much has been lost never to be regained. In either case it has been the "tendency" which is here emphasized.

well have followed this policy, even to illegal diversion of public lands. This has been most marked in respect to swamp lands. According to land-office investigations, vast areas, named swamp lands, but in fact richest agricultural lands, were taken up under the swamp acts. Perjury, fraud and corruption, even at the instance of persons supposedly representing states, and to whom indeed some states did lend cognizance, diverted land into the hands of individuals and corporations. The stimulus of opportunity to get something for nothing, public property being the agitant, has had a constant response.

The purpose of the Swamp Act was largely to provide revenue and means by which large areas, comparatively valueless at the time, might be redeemed from waste. But, according to land-office reports, few acts were productive of greater evil. States and state officials, irrespective of law and of federal rights, pursued all manner of tactics to secure for the states themselves and for individuals, not only a legal portion of this public land, but also large areas to which they had no shadow of right. The extent to which the swamp acts were profitably used may be indicated by the fact that, whereas at the date of the original acts in 1849 and 1850 it was estimated that 5,000,000 acres would satisfy the provisions of the grants, up to June, 1887, claims for 75,000,000 acres had been presented and patents for over 56,000,000 acres, an area larger than Minnesota, had been issued. However, as the land commissioner says, the real purpose of the act, as in the case of many other acts aiming at social welfare, was entirely defeated.¹ The proposed levees, generally, were not built and the reclamation of these lands was not accomplished. At the time of this commissioner's report there was very little evidence to show

¹ House Exec. Doc., 49 C., 2 S., 1886-1887, vol. ix, p. 39.

that the lands conveyed by the government under these grants were utilized for the purposes named in the grants.¹ But when states were willing and anxious to obtain possession in order to turn these lands over to railroads, speculators and others, "it is not surprising that swamp land and swamp-land indemnity claims have greatly augmented when the incitement of corporate and personal interest has been made a factor in the instrumentalities of swamp selection and the preferment of indemnity claims."²

No greater frauds in connection with public lands were ever exposed than those of these swamp lands. The worst feature, apparently, aside from land misappropriation, was the perjured testimony in survey and application as to the character of lands desired. This may possibly have been of no little influence in weakening respect for law and sworn instruments. The finest agricultural and grazing land was time and again sworn to as poor, overflowed and waste swamp-land. The land thus secured in large quantities, settlers, later, had no alternative than that of buying from speculators or prior holders, who carried off the profits. In other words, swamp lands were used for private profit rather than for the public purposes, for which the acts set them aside. Under the Swamp Land Acts, 81,699,235 acres were selected for entry, of which 65,015,414 acres were approved and 62,645,909 acres patented.³

Railroad Land Grants

From the time railway building in the West began on a large scale and large gifts were made to railroads to assist them in construction, the latter seem to have regarded the Public Domain as a peculiarly profitable field for exploita-

¹ House Exec. Doc., 49 C., 2 S., 1886-1887, vol. ix, p. 39. ² *Ibid.*

³ Public Lands Commission *Report*, 1905, *op. cit.*, p. 156.

tion. Land grants for building purposes were apparently sought, therefore, not only to meet construction costs, but also to afford good profit. Probably this was regarded as compensation for services rendered in helping open up a new country, though, in view of experience, a free right-of-way has enough increasing value to meet a large portion or all of this. Perpetual franchises are increasingly regarded with disfavor. An important phase of the railroad-grant policy in respect to individualism and democracy lies in the fact that, once having been endowed with strength, the railroads in time came to dominate in various ways the very people who had given them being. The farmers' granges vigorously attacked the railroads for this.

Donaldson stated in 1884 that, according to investigators, 215,000,000 acres would have been required to meet these various land grants. But land-office reports in 1880 showed that, considering actual selection, forfeiture, *et cetera*, 154,000,000 acres would satisfy grant provisions.¹ This would represent the combined areas of Ohio, Indiana, Illinois, Iowa and Wisconsin, or 240,000 square miles.² This was the extent to which public property was held ready to be transferred to private hands for "risks of construction." By 1880, 45,650,026 acres had been patented by the 15,430 miles of road then constructed.³ The Public Lands Commission of 1905 reported 155,273,560 acres of railroad land-grant to July, 1904, of which 76,614,640 acres had been certified or patented within the primary limits and 27,935,683 acres within the indemnity limits. In addition to the land certified or patented there were also 13,000,000 acres located and withdrawn from settlement and entry.⁴ In some

¹ *Public Domain*, p. 268.

² Cf. Map by Donaldson, *ibid.*

³ *Ibid.*, p. 268 *et seq.*, and p. 280.

⁴ Cf. *Report, op. cit.*, p. 143.

cases the railroads were vigorously attacked for tying up lands and holding them from settlement while awaiting appreciation in values. Large grants were tied up for indefinite periods before construction began. Often the latter failed entirely. In the meantime these lands had been closed to occupation. Many roads could not build within the stipulated time and Congress, during these railroad-building years, was besieged with applications for time extensions. This further brought about a withholding of lands from public circulation pending settlement of grants. It was not until September 29, 1890, that Congress, finally yielding to popular pressure, as opposed to that in and about Congress, passed a law declaring forfeited all lands theretofore granted in aid to railroad construction, opposite to or coterminous with the portions of those roads not then constructed or in operation.¹

Western railroads have been vigorously attacked for causing land sections to be withheld from circulation. Their methods of financing have also come in for no less criticism. During the early railroad-building periods it was charged in all quarters that the roads were using land grants not only to defray construction costs, plus profits of risks, but also to pile up huge fortunes. The difference between actual construction costs and the value of lands and loans made to the roads was felt to be inordinately great and far more than enough to compensate for hazard. It is reasonably clear that the railroads did greatly profit through the intense desire of the West for immediate transportation and communication facilities.

When, in 1882, the question whether the time of the Northern Pacific grant should be extended or whether

¹ 26 *Statutes-at-Large*, 496. For various exceptions *cf.* this citation.

the government, by right of forfeiture, should re-secure 39,900,000 acres of land estimated to be worth about \$99,750,000, was before Congress, a minority report from the Committee on the Judiciary, supplemented by an additional statement by Mr. Knott, of Kentucky, one of the minority, set forth some of the alleged discrepancies in construction costs *versus* land gifts. In this it was contended that the road was being too liberally endowed, that it was privately profiting at public expense, that the estimates of railroad officials were misleading, and that the land claimed by the road should therefore revert to the government and be thrown open to settlement.¹ The report stated that, while the president of the company averred that the cost of building 1,203½ miles of completed road and 170 miles of finished grade was \$51,019,402.99, and that the remainder of the road would cost enough to raise the total construction account of the whole of 2,409½ miles to \$93,526,668.86, or \$38,815.79 per mile, the government's Auditor of Railroad Accounts estimated, upon "fullest information," the entire cost of 2,700 miles at about \$75,000,000, or at \$28,000 per mile. The greatest construction expense in the Columbia River division, a distance of 238 miles, would be, according to the auditor, \$31,500 per mile. In 1874 the company reported to the Department of the Interior that the 530 miles then constructed had cost in surveys, construction, equipment and incidentals at the rate of \$28,456.24 per mile. Assuming this figure as low and that of the president as high, Mr. Knott assumed \$33,407.65 per mile as a mean. Then turning to land values, these figures were submitted: 2,600,000 acres had been sold for \$9,000,000 at a general rate of \$2.50 per acre. Thirty-nine million nine hundred thousand

¹ House Reports, 47 C., 1 S., vol. v, no. 1283, pt. ii.

acres unsold were valued at \$99,750,000. Total sales of all company lands, \$108,750,000. The difference between the receipts from land sales at a low acreage value of \$2.50 and construction expense at \$28,000 per mile would be \$41,284,000—a respectable surplus; or \$16,578,915 on the high figure of the president, and \$29,609,851 for the mean between the two. It was thus held that, if the company yet held legal claim to the grant, it would be no mean beneficiary of the land-grant principle. Mr. T. A. Bland, in 1881, cites the president of the Northern Pacific in his report to the stockholders as saying that at the rates the company lands were selling, enough would be realized to build and equip the road and its branches complete and leave a cash balance of about \$110,000,000.¹

The minority insisted:

It may be set down as a certainty not only that this road will be completed by some company without the aid of the lands unearned by construction, but that it will be worth all it may cost, and there are no good reasons yet apparent why the people should pay the cost of its construction and present the company with a colossal fortune besides. They will certainly profit nothing by the additional millions donated, as experience shows that every road which has been subsidized has, after completion, been operated on the principle that freight and passengers should be taxed just what the traffic will bear, and there is no reason to believe that there will be an exception in this instance.²

This has been one of the problems respecting companies profiting in public land distribution. The government, or more generally speaking, the people, presented railroads with acreage to pay costs of construction. Upon operation,

¹ Cf. *The Reign of Monopoly*. A pamphlet printed in Washington, 1881, p. 15.

² Report printed in *Public Domain*. Cf. pp. 879-892.

however, the same roads turned on their benefactors, and exploited them through freights and fares, not to mention other methods, political and otherwise. Thus were creatures of the state designed for public service diverted to private service. The following table is an abbreviation from an interesting compilation given by Donaldson in 1884.¹ While some authorities may hold that the cited figures on the "estimated present cost per mile" of some of these railroads are low, they do agree generally that construction costs were often excessive.

MILEAGE AND CONSTRUCTION COSTS OF PACIFIC ROADS
Reported by U. S. Auditor of Railroad Accounts to June 30, 1880

	Northern Pacific.	Union Central Route.	Atlantic and Pacific. ³	Southern Pacific.	Texas Pacific.
Miles constructed or owned....	680	3,414.92	175	{ ² 132 579}	{ ² 444 2444}
Cost of same per mile	\$35,813	\$93,224	\$80,786	\$91,082	\$61,771
Miles to be constructed	1865	139.19	2325	350	{ ² 617 840}
Cost per mile of same.....	\$26,868	\$40,000	\$25,000	\$30,000	\$30,000
Total mileage of system	2700	3554	2500	920	1901
Total cost per mile of same	\$28,000	\$91,151	\$35,526	\$81,020	\$37,416
Estimated present cost per mile of same	\$28,000	\$25,624	\$20,000	\$25,000	\$20,000

The discrepancy between the high construction costs reported by roads to justify themselves for receiving government aid and for financial reasons, and the govern-

¹ *Op. cit.*, p. 932.

² Unsubsidized.

³ An act of Congress declaring forfeited Atlantic and Pacific lands in California and New Mexico was reported by the Land Commissioner in his report of October 7, 1886, to have affected 10,000,000 acres. *Cf.* House Exec. Doc., 49 C., 2 S., 1886-87, vol. ix, p. 31.

ment auditor's estimates on building expense is the item to be noted in this table. This gave abundant reason to the people for feeling that not only were these roads over-capitalized, but that government properties and support were being spent unjustifiably in the interests of a few. The Credit Mobilier of Union Pacific fame especially brought the roads into ill-repute. Such construction companies proved useful adjuncts in these building operations in which private capital was sought. The total cost of building and equipping the Union Pacific to December 31, 1879, according to reports filed with the Auditor of Railroad Accounts at Washington, was \$118,682,223.96, or \$114,262.54 per mile, while the same officer estimated that the whole of it from Council Bluffs to Ogden, building and equipment with similar grades, same route and laid with steel rails, would cost approximately \$32,000,000, at a rate of \$20,000 per mile west to Cheyenne, and \$40,000 per mile to the end.¹ The Kansas Pacific reported its mileage cost of construction at \$51,244.65, while the Auditor asserted that in a prairie country it could be built for \$20,000, fully equipped.² Though the Auditor's construction cost estimates were possibly too low, many experts hold that actual construction costs were often too high. Governor Glick, of Kansas, commenting in his message of January 9, 1883, to the legislature on the value of railroads in the state, said: "The actual costs of building, equipping and maintaining these roads did not exceed more than one-half of the cash value of the lands, mortgages and bonds donated to them, thus leaving about 50 per cent of what has been donated for the construction of railroads to go into the pockets of the management."³ Up to December 31, 1879, the Bur-

¹ *Public Domain*, p. 917.

² *Ibid.*, p. 918.

³ Cited from *Junction City Tribune* [Kans.], January 18, 1883.

lington and Missouri in Nebraska, with 190.5 miles of road, had sold \$8,556,782 worth of land, with \$5,600,000 still to be realized from this source, whereas the cost of the road was \$8,249,955.00.¹

Public land was given to the railroads ostensibly to defray costs of construction. But of course the railroads could not realize immediately on their lands. Sales could not be made at once. In part this was the reason the roads delayed construction. As a matter of fact, many roads, it was charged, purposely followed the policy of delaying construction and sale of land until through further settlement and development, it became more valuable. This was a curious miscarriage of the railroad-grant idea, *viz.*, that of encouraging roads to build for the purpose of opening and building up the new country, whereas instead, they calmly waited until, through increased land values and general prosperity, they themselves were the recipients of benefits meant for all. This is not to say that the roads themselves have not been powerful instruments in national development and prosperity, but that they much too often have used their strategic position for private rather than public interests. Subsidy grants have also been misused by the railroads. Said the minority on the Committee on Pacific Roads in 1897, "Public interest has been subordinated by these companies to the stockholding interest upon the claim that the stockholders owned the railroads and could manage their own business in their own way" irrespective of public interest. In the relations of the roads to the government respecting bonding of the roads and percentage of earnings

¹ *Public Domain*, pp. 923-924. The views of the minority, Committee on Pacific Railroads, in its report on "Government Debt of Pacific Railroads," Senate Reports, 55 C., 1 S., 1897, nos. 1-86, Pacific Railroads, *etc.*, p. 24, are peculiarly pertinent.

payments to the government according to contract, they resisted the government's claims and demands at every point. They also charged the government higher shipping rates than private parties.¹

The point at issue respecting the railroads in their relation to the public is that after profiting through public policy in land grants and in special privileges, such as cutting of timber from and use of adjacent lands, they reciprocated by piling up enormous construction accounts, capitalization and indebtedness, on which interest had to be paid, to the profit of a comparative few but at the expense of the public at large. They could do this for various reasons, some of them, at least, being the strategic physical position occupied by the railroads in a new country, the unsettled social and economic conditions, and the desire of individuals to profit at public expense. In time the railroads transposed the idea that they were agents of the common good into the idea of private profit. Later thought, however, is again making them public servants.

Western railroads profited by public land policies and through their land transactions. They further succeeded for a long time in successfully avoiding their pro-rata share of taxation. The roads advanced all sorts of arguments to escape taxes. As a result, bitter controversies have been frequent in most of the states most closely associated with the land-grant roads. To the settler, who by hard labor increased social wealth and bore his share of the social budget, this was especially reprehensible.

In order to avoid these tax levies the railroads shielded themselves behind the fact that whereas they held lands, or had been granted them and they could sell them, still they did not hold patents. Consequently the lands re-

¹ Cf. *Report, op. cit.*, p. 25.

mained government property and therefore could not be taxed. Thus railroads profited on land sale and increases in land values, but were relieved of what might easily have been considered their share of public expense. The possibility of thus escaping taxation came about through provisions in the grants requiring cost of survey and conveying to be paid before issue of patent. As Commissioner Sparks said: "For all purposes except taxation the lands are railroad lands; when it comes to taxation they belong to the government."¹ Naturally, this policy of the railroads was considered not only inequitable but also highly reprehensible, in that they escaped their due share of public burdens. Democratically considered, this was certainly far from ideal, for democracy posits responsibility as well as privilege. But public land policy and practice encouraged it.² The *Omaha Bee* of July 3, 1874, observed: "One thing is certain: If all the railroad lands were sub-

¹ House Exec. Doc., 49 C., 1 S., 1885-86, vol. ii, p. 198.

² The following abstract of statements made by clerks of certain Kansas counties and cited in a speech made by John H. Anderson of Kansas in the House of Representatives, May 5th, 1880, indicates the number of acres granted to the Kansas Pacific Railway Company by Congress, July 1, 1862, in the respective counties and upon which no taxes could be collected.

COUNTIES.	No. of acres from which no taxes could be collected.	Total taxes per annum.
Riley	10,160	\$660.40
Waubannsee	17,000	548.25
Dickinson	5,040	529.20
<i>Etc.</i>	<i>Etc.</i>	<i>Etc.</i>
Total 17 counties	1,248,899	\$143,047.97
16 counties not heard from..	2,863,262	239,909.75

ject to taxation, half of the lands now unsold would be occupied by actual settlers, and the remainder would be worth more money than they are now."

According to tax commission reports, the railroads also escaped proportionate taxation by securing under-valuations for tax levies. This story of tax-dodging has been interesting. Parsons writes that Governor Pingree of Michigan had told him personally of the state having thus lost taxes on about \$500,000,000.¹ Under-valuation of mileage was resorted to in the state. Senator La Follette is authority for the statement in his railroad fight in the state, that the state had been defrauded out of immense sums. It is true that other states whose history does not directly relate to the Public Domain have experienced similar irregularities. Special significance, however, lies in the fact that in those states where the processes making for democracy have been most active apparently, some of the most serious abuses have occurred.

Besides the relation of the railroads to development of country and possibly more widely significant, is the political activity of the roads in legislative and administrative circles. By securing favorable action respecting land legislation and administration, also in other matters affecting railroad interests, besides preventing unfavorable action, they successfully established their position. This was possible in newer states largely because of the immense areas practically dominated by railroads, the precedence private interests have had over public affairs through the sudden development of vast economic interests with which society had yet to establish new relations, and through a lack of publicity agencies which could create a necessary social con-

¹ *The Railways the Trusts and the People*, 1906, p. 217.

sciousness. These large corporate interests secured their ends both honestly and dishonestly. So far as their work was dishonest in corrupting public servants, the effects undoubtedly have been, serious. It is of vital concern, under the democratic ideal, when public servants sworn to safeguard public interests, are willing and anxious to sacrifice public trust to private gain. The fact apparently seems to be that at no time have the opportunities for private gain at public expense been greater than under those conditions which have successively obtained in the occupation of the Public Domain. Conditions besides human cupidity have encouraged rather than discouraged the use of public office for private interests. In "railroad politics" in the West we have an instructive and disturbing view of corporations designed for public service operating to the direct disadvantage of those to whom they owed their being. The anomaly of the situation, democratically considered, is even more apparent in the control, through rates and service, of large districts for whose interests the railroads were originally endowed. Everywhere throughout the West powerful railroad lobbies have dictated legislation.¹ Judge Cooley has spoken of some of the great and wealthy corporations as "having greater influence in the country at large and upon the legislation of the country than the states to which they owe their corporate existence."² Governor Glick, of Kansas, in his legislative message of January 9, 1883, said: "To-day we have in our midst the strange spectacle of a rich, strong, influential and solidified monopoly greedily encroaching upon the rights of the very people whose creatures they are, and to whom they owe, not only their existence, but the very patronage which en-

¹ Cf. Parsons, *op. cit.*, ch. v.

² *Constitutional Limitations*, 4th Edition, p. 340.

ables them to wield a power whose possibilities are simply appalling."¹ And yet democracy has been the dominant ideal. Kansas and Nebraska were long under railroad rule. Wisconsin and Missouri experienced long struggles.² Colorado and Iowa each have found themselves within the railroads' grasp. An inspection of Donaldson's railroad map³ alone, indicates what might be expected in railroad dominance.

The railroads also added to their political rule economic dominance in rates and service the struggles over which are familiar chapters in American industrial history. In principle it is difficult to differentiate this from the excessive exploitation to which the West has been so generally committed. Like speculation, this fell most heavily, however, and immediately on individuals and communities, and much of the time on those less able to bear the burden.

*Homesteading and Commutation*⁴

The Homestead Law and the Commutation Act also have not been unmixed blessings, for under them some of the most serious perversions of Public Domain distribution have occurred. Designed originally to make land-holding easy, to distribute farms on a most democratic basis, to put a premium on bona-fide settlement and proprietorship, these laws have each suffered serious abuses. In the first place,

¹ Cf. *op. cit.*

² Cf. Million, "State Aid to Railways in Missouri," *University of Chicago, Economic Studies*, no. iv, 1896, pp. 184-187 especially; also Stickney, *The Railway Problem*, p. 10 especially; Parsons, *op. cit.*, ch. v and pp. 78-83; Larrabee, *The Railroad Question*, 1895; and Van Oss, *American Railroads as Investments*, especially ch. iii on "The Railroads and the Law."

³ Cf. *Public Domain*.

⁴ Cf. *infra.*, ch. iii.

actual bona-fide homesteaders and commuters, much of the time, have barely complied with the provisions of the law, and in innumerable cases have wholly defeated it; and second, the laws have made it possible for huge blocks of public property to pass illegally and inequitably into private possession. There is no question that, under conditions which have obtained, they have been effectual means for improper land distribution on a large scale. It is true that under them great benefits have accrued both to society at large and to individuals. Nevertheless, conditions have been such that observance of these land laws has been merely nominal. In this respect there are adequate grounds for the belief that some phases of homesteading and commutation have not only been bad in themselves, but that they partly explain the attitude of the public at large toward public property in the West, whose characteristics have been indicated. We have already referred to the difficulty of securing jury convictions in cases of trespass and illegal entry.¹ It is worth noticing that these juries have probably a large part of the time included members who themselves, perhaps only in a small way, profited at the expense of land laws, including the homestead and commutation laws. Entries and final papers by these laws have actually been scrutinized as keenly as under any other laws. It has been a constant struggle in the General Land Office and in district offices, since the initiation of the Homestead Act, to have the provisions of the law complied with. Much of the trouble has been caused by the popular notion that even this law was too stringent. To many, residence for five years appeared too great a requirement. Restraint in any direction has found but scanty approval. The Commutation Law was definitely designed to make land-holding even more easy.

¹ Cf. *supra*, p. 168.

Beyond this phase of homestead and commutation history appears another, however, to which the recent Public Lands Commission calls attention:

Detailed study of the practical operation of the present land laws, particularly of the desert land and commutation clause of the homestead act, shows that their tendency far too often is to bring about land monopoly rather than to multiply small holdings by actual settlers. The land laws, decisions, and practices have become so complicated that the settler is at a marked disadvantage in comparison with the shrewd business man who aims to acquire large properties. Not infrequently their effect is to put a premium on perjury and dishonest methods in the acquisition of land. It is apparent, in consequence, that in very many localities, and perhaps in general, a larger proportion of the public land is passing into the hands of speculators and corporations than into those of actual settlers who are making homes.¹ This is not due to the character of the land. In all parts of the United States known to your Commission where such large holdings are being acquired the genuine homesteader is prospering alongside of them under precisely the same conditions. Wherever the laws have been enforced as to give the settler a reasonable chance he has settled, prospered, built up the country, and brought about more complete development and larger prosperity than where land monopoly flourishes. Nearly everywhere the large land-owner has succeeded in monopolizing the best tracts, whether of timber or agricultural land.

¹ The immediate importance of this statement is more evident in the fact that, including Alaska, 270,267,760 acres of surveyed, and 571,604,617 acres of unsurveyed land, including 368,035,975 acres in Alaska, in the Public Domain are now unappropriated and unreserved, the value of which both now and under future economic and social developments is beyond computation. Cf. Commission's Report, *op. cit.*, p. 360. The country has never faced a more serious or important question than this one relative to its policies concerning the remainder of the Public Domain.

There has been some outcry against this condition. Yet the lack of greater protest is significant. It is to be explained by the energy, shrewdness and influence of the men to whom the continuation of the present condition is desirable. Your Commission has had inquiries made as to how a number of estates, selected haphazard, have been acquired. Almost without exception collusion or evasion of the letter and spirit of the land laws was involved. It is not necessarily to be inferred that the present owners of these estates were dishonest, but the fact remains that their holdings were acquired or consolidated by practices which cannot be defended. There exists and is spreading in the West a tenant or hired-labor system which not only represents a relatively low industrial development, but whose further extension carries with it a most serious threat. Politically, socially and economically this system is indefensible. Had the land laws been effective and effectually enforced, its growth would have been impossible. Although there is a tendency to subdivide large holdings in the long run, yet the desire for such holdings is so strong and the belief in their rapid increase in value so controlling and so widespread that the speculative motive governs, and men go to extremes before they will subdivide land which they themselves are not able to utilize. The fundamental fact that characterizes the present situation is this: that the number of patents issued is increasing out of all proportion to the number of new homes.

Signed: W. A. Richards, F. H. Newell, Gifford Pinchot, Commissioners.¹

The commutation clause particularly has been a convenient means by which the title to timber land could be acquired easily and the land presently sold on speculation.²

It is the danger of absentee ownership and control which the country has continually faced in western development

¹ *Op. cit.*, p. xxiii.

² *Ibid.*, p. viii.

in spite of the fact that the philosophy of public domain distribution has been based on the opposite ideal. In opposition to this tendency many of the farmers' movements gained their greatest strength. Indeed it is the same danger which causes much social unrest in England. It has been observed that an increasing amount of western property has been accumulating in eastern hands. Huge areas have never been seen by their owners. This should be considered a matter of national importance. Spahr observes:

The occasional statistics published respecting the ownership of public lands, national and state, the occasional statistics respecting the ownership of railroads, the occasional statistics respecting the ownership of mortgages, and common observation respecting the ownership of mines, ranches and city real estate indicate, though they do not prove, that three-fourths of the public lands, three-fourths of the railroads, and at least one-tenth of the real estate and real estate mortgages located in the South and West are held in the East or in Europe.¹

Whatever truth there is in this statement may be traced largely to the methods and characteristics of western development in connection with modern business organization and the development of property and realty holding.

General Summary

If one follows the history of land distribution in the United States he soon realizes that illegal appropriation and unlimited schemes for spoliation and exploitation mark it at every turn.² Weaknesses in the land laws themselves are offered by some as excuses for these conditions. More fundamental influences, however, have been at work. The West has offered tremendously stimulating incentives for gain

¹ *Op. cit.*, p. 45.

² Cf. Smythe, *Constructive Democracy*, ch. on "The Rape of the Public Domain."

and men have responded. In the made scramble many of the district land offices and agents fell. One of the worst features of the whole situation has been the apparent collusion and connivance of public officials both in Washington and throughout the country in schemes of spoliation, and conditions have been such as to favor their operations. Public conscience in these matters seems to have been more or less insensitive to anything save the most vicious attack. Comparatively slight attention has been given to the idea that men of the present are trustees of the future. Public welfare has generally been interpreted in terms of private interests, if it has been considered at all. The results of this idea have been indicated briefly in these last two chapters.

In agriculture, forestry and lumbering, mining and land speculation, and other forms of "western occupation," the motive of exploitation has had full sway. In fencing of grazing lands, in fraudulent surveys, in railroad grants, in homesteading and commutation, in the more recent effort to secure private possession of water power and water-power sites, efforts to absorb large and valuable portions of the Public Domain for purely private purposes have been dominant. The comparatively new conservation idea is not so much based on the idea of forbidding occupation and making it and the development of natural resources impossible, but on the idea of accomplishing this with an eye to public rather than strictly private interests, as up to date has generally been the case. And still the fight against individual and personal liberty respecting the distribution of the Public Domain continues to be waged. It is one of the paramount questions of the day.¹

¹ Fortunately, the country has had and now has public-spirited citizens, who realizing the dangers confronting the country in its public land policies, have and are devoting time and strength to the safeguarding of public interests.

The picture of western development is not wholly somber, however, dark as it may be in certain directions. Were not the strongholds of personal, social and political righteousness more strongly entrenched than those of the opposition the prospect would be truly discouraging. But great strides have been taken in the direction of democracy and individual liberty. Indeed, in America, as we have endeavored to show these advances have been made largely because of the very conditions which have produced the evils we have been emphasizing.

The situation seems partially to reduce itself to this :

Exploitation of natural resources has produced waste, and future social interests have been disregarded.

Frauds against individuals and society at large represented by the government have been encouraged and perpetrated on a large scale and private and public dishonesty has ensued.

Public estate has been used for private interest on a large scale. It takes time for social ideals to change.

Social disapproval has not extended far enough to prevent the individual from holding himself superior to law.

The democratic ideal has thus undergone terrific strain and stress. If democracy survives these conditions it may perhaps no longer be regarded as an experiment.

CHAPTER IX

A SOCIAL DEMOCRACY—SURVEY AND CONCLUSION

SOME of the problems of American democracy in relation to internal development and history have been pointed out in a broad way. Many of them during the past fifty or one hundred years and those of to-day cannot be fully appreciated except in the light of conditions surrounding their generation and subsequent growth.

Starting at the post-Revolutionary period, by which time the ideas and ideals of democracy, liberty and equality had become well fixed, not only as individual and social theoretical concepts, but to a greater or less extent as concrete reality, the history of the opening and occupation of the Public Domain has been traced. Population movements and their participants have been examined; also the economic and social conditions at successive periods. This is the stage setting for the drama of democracy in America.

A resumé of government land policies has indicated how a system originally arranged to dispose of public lands for revenue was modified into an extremely democratic system, culminating in the Homestead Law, with its subsequent commutation clause adopted primarily through the influence of the West itself. Difficulties of administering land laws and enforcing regulations were pointed out, indicating the difficulties of control *versus* individualism. During the whole pioneer period much personal and corporate freedom has been stimulated. Land policies and land legislation them-

selves have given the widest range of liberty to the individual, and social conditions and economic stimulus have but strengthened this tendency. Conditions have been such as to stimulate both ideals of democracy and individualistic practices with what results the future alone can reveal.

The country has passed through at least two stages and is now entering on a third. During the first stage individual enterprise for personal and family benefit was dominant and conquered the wilderness. The idea of husbanding natural resources received practically no thought. The next stage was one of collective enterprise, for the benefit of communities or of individuals forming them. During this stage great internal developments took place and new cities and new states were erected. This was also the stage during which great monopolies, largely based on control of natural resources, *et cetera*, began to develop, with the characteristics of the first stage still more or less dominant. The third stage on which we are now entered is one in which enterprise is largely collective and co-operative, and should be directed toward the larger benefit of communities and the people generally however difficult with our past inheritance it will be to realize this fully. Larger social interests, however, are being gradually recognized. Conservation is a re-sounding note.¹ A difficulty is, that under this new ideal, which must be pronounced essentially democratic in spirit, there are still persisting those individualistic elements so strongly encouraged during past decades of national development. Furthermore, the frontier, in some senses, still exists, and western states and territories, including Alaska with its remarkable resources, still offer

¹ Cf. National Conservation Commission, *Report of National Conservation Commission and a Chronological History of the Conservation Movement*, Bulletin no. 4, 1909, p. 6.

tremendous incentives for the expression of the same characteristics observed in the past. Again it is a question of how much individuals will profit at public expense.

Social rights in private property are increasingly recognized, yet, as Underwood points out, the trend of the law has been toward distinct individual ownership of property, including land.¹ At the same time the concurrent necessity of social limitations on private ownership is recognized not only theoretically but practically, though our national land policy has distinctly fostered the idea of private property. "The American liberty to own land as nearly as possible as a chattel is the most complete in history," says Underwood. Furthermore, private ownership, even to the exclusion of social rights, has passed on to corporate bodies. The total result of all this has been that social sanction has permitted the exercise of much individualism in the selection and holding of land and realty property, and law has formally approved it through the recognition of exclusive rights of private ownership. The two together have effectually combined to bring about the alienation of huge Public Domain areas into private hands without proportionate social returns or responsibility. The country has been exploited and most serious developments have resulted.

These matters are of the most vital importance since about the question of individual rights has centered most political thought and debate. Much of this discussion has revolved about the essential principles of equality and democracy, and, furthermore, liberty or control. To set the metes and bounds of individual freedom and those of social

¹ "The Distribution of Ownership," *Columbia University Studies*, vol. xxviii, p. 105; cf. also, Hadley, "The Constitutional Position of Property in America," *The Independent*, April 16, 1908.

² *Ibid.*, p. 117.

interests and social rights, and to determine how far social control vested in governmental agencies should extend, has been a difficult question. An approximation to the limits of each, in theory if not in practice, must necessarily be established in organized society where the individual does not live alone but sustains a series of complex relationships with his fellows. His sphere of action is necessarily limited by the rights of others. What function the state performs in preserving these rights to all is a question for political philosophy. Herbert Spencer's pronouncements against what he considered too much interference by the state provoked a storm of dissent. "What are the rights of the individual in society, and how far can the government, a political institution, limit the activity of the individual?" were the questions propounded.¹ Under republican organization and democracy the question must be raised again if the present study teaches us anything. How much expression of individual liberty can be allowed and general social welfare be preserved?

The individualist believes in liberty — liberty in certain fields of action which he himself shall determine. But the idea of liberty has undergone a revolution. According to Donisthorpe, following, possibly, Rousseau's theory of contract, men agreed finally to suppress certain evils of liberty by united action, organizing social or political institutions for their protection.² But in time the organized forms themselves began to encroach too much on the freedom of the individual until excessive restraint brought about a reaction to personal liberty. Civil liberty, in time, came to be defined as the greatest possible freedom of the individual from state interference, compatible with the recognized well-

¹ Cf. *Man and the State*.

² *Individualism, A System of Politics*, p. 294.

being of society.¹ This theory has been dominant in America.² It is this struggle of the individual in the line of social evolution to realize the maximum amount of personal freedom in his activities which has not only found expression in political philosophy but also in direct modifications of political institutions.³

Certain forms of liberty are good; other forms are bad. They are bad, certainly, when the welfare of a social group or social welfare in general is threatened.⁴ The point of demarkation between the good and bad is that which is sought. But how is it to be determined? Social stability is surely threatened when the individual, in his activity, undermines its foundations, by escaping from or rising above proper control. Both society and the social or political philosopher approves of any policy which restrains or prevents, even by repressive means, acts which are considered socially detrimental. At least ideally this is so. Unfortu-

¹ *Op. cit.*

² Cf. Bryce, *American Commonwealth*.

³ Probably never in history has so much attention been given to the complex relationships of the individual and society as is given today. Never before has the interdependence of various social groups and of individuals within these groups been so fully recognized. Consequently we of today are witnessing an out-pouring of effort in every direction to ameliorate or improve the conditions of social existence. Never has social economy as a science been so carefully pursued and its conclusions so carefully applied for the realization of desired social adjustments. Probably never before have men become so accustomed to subject individual activity to scrutiny and examination through socially focussed lenses as today. Our philosophy of life is rapidly expanding from one individualistic in character, for which the church may assume its full responsibility, to that plus one essentially social. We look to serve and save "man" not "men" alone, and this therefore subjects to the closest examination anything which operates for or against this idea.

⁴ Cf. Donisthorpe, *op. cit.*, p. 298.

nately for society in general it is slow to act and society suffers proportionately. "As soon as any part of a person's conduct," says Mill, "affects prejudicially the interests of others, society has jurisdiction over it, and the question whether the general welfare will or will not be promoted by interfering with it becomes open to discussion."¹ But beyond that the individual claims a field of action of his own where governmental and social interposition has no right to intrude. Good citizens will, therefore, not chafe under proper control though bad ones probably will. Until the individual becomes primarily social in his philosophy and actual conduct, however, or expands his circle of social relationships, or at least until he betrays characteristics opposite to those which have led to the conditions reviewed in this essay, society must itself continue to provide for its own protection. This means regulation, and may mean even repression, from the standpoint of the individual, until that time when a higher social consciousness among the several units of society shall be developed. This will come about through a gradual elevation in standards of public morals and through an increasing realization of ever widening social dependency.

Individualism, both in theory and practice, has been a constant element in social evolution. Says Kelley, it is "supported both by the law of evolution and by the highest principle of statesmanship."² A growing recognition of individual freedom has been constant. This has been the leaven in the social lump. We must have it, though it has its own dangers.

¹ *On Liberty*, "Of the Limits to the Authority of Society over the Individual," p. 111.

² *Government or Human Evolution*, vol. ii, "Individualism and Collectivism," p. 11.

"Individualism is the theory that the production, transportation and distribution of the necessities of life can best be left to individual enterprise stimulated by self-interest and competition, under the protection and subject to the control of the state," says Kelley again.¹ Yet if this definition is accepted, it follows, from well-known facts, that we have had abundant opportunity, and still have to-day, to observe a super-individualism, for governmental and social control has been that against which our own citizens have rebelled most vigorously. The constant protest against regulation in the distribution of land and the exploitation of natural resources is abundant proof of this, not to mention governmental regulation of corporations, public, quasi-public and private. The railroads themselves, brought into being by the people, have been conspicuous examples of those classes of corporations which have fought control of any kind. The peculiar significance of the exploitation of natural resources lies more particularly in the fact that with great plenty, social right to this abundance has not been recognized, and now that these social rights are perceived and policies must be adopted to safeguard social interests against private interests, there has been, and is now, much difficulty in securing this protection of the rights of society against even its own members. Problems of democracy have become more complicated.

In view of the complexities of the case it is not surprising that there is difficulty in drawing nice distinctions in matters closely related to individual liberty. Theoretically, perhaps, the bounds of liberty may be determined, but in actual practice to solve the problem is not easy. Especially is this so in a democracy where the highest ideal, in theory at least, is "that which secures to every citizen equality before the

¹ *Op. cit.*, p. 4.

law, freedom of person, freedom in the family, freedom of conscience, freedom of opinion, freedom of speech, freedom of trade, freedom of labor, freedom of property, freedom of action when not injurious to the state or society . . . which provides that the enlightened will of the majority shall be the rule of all, while none shall be restrained, but for the general good; which, combining the strength of a whole people, has for its first object, security for the rights and liberties of every member of the state.”¹

“But who or what agency shall determine how far this freedom extends, and determined, what agency have we in a democracy to guarantee the same to all parties?” we may ask.

“The government, acting in response to the sovereign will of the state,” may be the answer.

“Public opinion,” some one else may suggest.

But public opinion, as also the State, acts slowly, and in the meantime individual freedom, as we have seen it, may operate so far as to cut under general social rights and block the operation of social justice. Herein lies the difficulty. Answering it, Mill says: “The only freedom which deserves the name is that of pursuing our own good in our own way, so long as we do not attempt to deprive others of theirs or impede their efforts to obtain it.”² This is a matter of ethics, then, besides one of political philosophy. The only grounds, therefore, on which we can interfere with another is to prevent him from trespassing on the rights of others,³ directly or indirectly, and in relation either to the present or the future.

Now one of the fundamental principles of democracy is

¹ May, *Democracy in Europe*, vol. i, Introduction lxiv.

² *On Liberty*, Intro., p. 18.

³ *Ibid.*, p. 13.

to insure "life, liberty and the pursuit of happiness," yet the principle seems to open the way to the very thing against which ideal democracy contends, namely, oppression through individualism. The lack of standard, the lack of adequate or recognized authority—social, political, religious, ethical—apparently peculiar to growing democracies, coupled with an individualism often tending to egotism, is one of the results—though not necessarily *the* result, perhaps—of democratic institutions and the democratic spirit, says Dr. Abbott.¹ Yet we are not ready to say that democracy, *per se*, is entirely responsible for this. Instead we look for breaks in the machinery to see what causes the trouble. In this study we have investigated the natural conditions and circumstances in America, social and economic, to discover basic causes. The reader is referred especially to the chapters on democracy, optimism and individualism. It has been shown how much the West itself, with those conditions peculiar to it, has had to do in developing these ideals in theory and practice. If it be thought that there has been too much unbridled individualism, a stimulus may easily be found in the New America.

No doubt the democratic idea itself, so assiduously followed in the West, as pointed out in a preceding chapter, has had much to do in weakening a control, social or political, which otherwise would have been a powerful restraining influence. The democratic ideal proposes for the individual a maximum of personal freedom consistent with social rights. In America the first part of this ideal has been embraced; but the remainder much of the time apparently has been forgotten or given but secondary thought. American experience may well be cited as an illustration of the results of the application of one phase of an idea without a pro-

¹ *Rights of Man*, p. 284.

portionate observance of its other features. It is possible for one to have his eyesight seriously impaired by concentrating on one object too long or too steadily. A nation's vision may also be seriously disarranged. Social, political or ethical astigmatism may result. This is the point at issue in exploitation and waste. Aside from the rapid growth of fortunes, which widens the gulf between those who have and those who have not, with the accompanying social stratification, and makes even economic opportunity more of a theory than a fact, dislike of control which exploitation, waste and fraud engender, even with the sanction of democracy, is of special significance. A desire for and an appreciation of personal liberty has been distinctly encouraged in the West, or in America in general, yet this freedom has as surely encouraged inadequate control, and often placed social welfare subordinate to private interests.

To establish and maintain equity is the function of the moral and juristic organization of society, and equity can be nothing more than a compromise and a reconciliation of different interests and claims of individuals. Now to secure this there must be a limitation of liberty, or else some one or the whole social body suffers. This requires the establishment of a fundamental social solidarity and a recognition of the ties of human brotherhood, of fraternity, and as long as there are strong and weak members in society there must be some curtailment of the liberties of the strong to preserve the liberties of the weak. The human struggle in the higher reaches of social evolution cannot be viewed complacently when it snuffs out weaker, but perhaps more desirable, elements. Some form of social control must be devised, for the only way to extend liberty, paradoxically, is to limit it. That this is of double importance, too, lies in the fact that it is only with liberty that we may hope for

continued progress. No greater or more complex problems have taxed the human mind. Liberty being the bulwark of progress, it seems more than paradoxical to hold that to save it one must destroy it. Actually, however, this is the way the difficulty has been solved throughout social advance, and this has been done, as Professor Giddings has pointed out, by the creation of certain modes of equality, and thus have the democratic ideas of liberty, equality and fraternity, or human brotherhood, been harmonized.¹

There is a real difficulty in the attempt to harmonize the two verbally contradictory principles that democracy is liberty—or freedom—as Mill is quoted above as saying: and that democracy does not mean liberty, as Fisher Ames insisted, but rather is in opposition to it.² De Tocqueville pointed out the difficulty, though in a different connection. "The taste men have for liberty, and that which they feel for equality" he says, "are, in fact, two different things."³ He insists that the democratic ideal is this love of equality, and that freedom is not a distinguishing trait of democracy.⁴ Although men cannot become absolutely equal until they become free, yet in the exercise of this freedom they immediately create the conditions of inequality, as also Willoughby points out.⁵ At least our study in American history indicates this. It is disconcerting, to say the least, knowing of no fortunes above a few hundred thou-

¹ For a discussion of equality the reader is referred to Giddings, *Inductive Sociology*, pp. 238-239; on principles of organization in relation to coercion and liberty, *cf. ibid.*, pt. iii, ch. iv.

² *The Life and Works of Fisher Ames*, vol. ii, p. 344, Essay, "Dangers of American Liberty."

³ *Democracy in America*, vol. ii, p. 115.

⁴ *Ibid.*, pp. 115-116.

⁵ *Cf. Social Justice*, 1900, *passim*.

sand dollars in America, for instance at the beginning of the last century, and finding a few only by the time of the Civil War exceeding \$1,000,000, to have it now asserted that one per cent of our American families receives nearly one-fourth of the national income, while fifty per cent receives barely one-fifth; that one-eighth of our American families gets more than one-half of the aggregate national income, and that the richest one per cent has a larger income than the poorest fifty per cent; ¹ also, that 100 men in the country control the welfare of the American people.² This assertion is a matter of concern from the point of view of real democracy, for it may be conceived that, to some extent at least under certain circumstances, there may be form without substance if by political democracy we mean popular control or "home rule," within reasonable limits. The power of wealth, as many writers have shown, extends through every phase of life, social, economic, religious and political, and as such must be reckoned with in any discussion of democracy. As Dr. Moses says:

In view of the necessary relation between a certain form of society and its proper form of government, a modification of the political organization may be expected as an inevitable accompaniment of the changes which society undergoes in passing from the simple to the complex form. Under this principle, which, since Montesquieu, has been one of the axioms of political science, we expect a democratic government wherever we find a democratic form of society, or wherever there is a near approach to equality of material conditions. Under this principle, on the other hand, we expect that, in a society where great inequalities of material conditions prevail, the govern-

¹ Spahr, *Distribution of Wealth in the United States*, pp. 128-129.

² La Follette, *Speech in Senate* on "Aldrich Currency Bill," March 17, 1908.

ment maintained will be neither democratic in form nor democratic in spirit.¹

This is of national consequence if one follows Kelley in his threefold classification of liberty as personal, political and economic.² In any one of these three fields liberty for one may mean oppression to another, and oppression is antagonistic to the democratic ideal. Not that there should be a complete surrender of the individual and his interests to the whole, or his complete absorption in it, but that the whole should be regarded as a composite with the several parts possessing inalienable rights, rights which the whole as well as the several parts should recognize. In other words, there should be a realization of a fundamental social solidarity.

The ideals of civil, intellectual, religious and political freedom have been perfected, at least, as ideals, and to some extent in fact. Economic freedom, however, is still in the process of evolution. If we accept the "economic interpretation of history" in whole or in part we are bound to see, therefore, that fundamental to freedom in these various fields is economic status. This being so, the economic conditions which have obtained at successive periods of American western development—the dominant fact in our national life as we have attempted to show—should be studied with the greatest care to see what influence they have had in processes of social evolution in this country. "One function of real democracy is to secure as much liberty to the individual as possible, and its social ideal is that of equalizing the start in the economic struggle. Consequently, the distribution of property is at the bottom of

¹ *Op. cit.*, p. 10.

² *Op. cit.*, vol. ii, p. 239.

democracy in America," Mr. Dickinson believes.¹ "If property is badly distributed it is because of free competition in modern industrial society, among other things," he concludes. Without entering into an extended discussion of competition, we may observe at least that the economic stimulus of the West has undoubtedly encouraged it, besides complicating the distribution of property.² Competition is said to be "the life of trade," yet there is abundant evidence to indicate that it may "kill." Unbridled competition, pushed to extremes, will probably be decidedly bad; yet, on the other hand, uncontrolled monopoly is as much to be avoided. The industrial revolution of the past century has but accentuated this problem. Is it not also apparent that the conditions which have obtained in America in connection with the opening and exploitation of a new country have but complicated the question? Unrivalled opportunities for gain have served to stimulate competition, while, on the other hand, social conditions have been such as to limit or interfere with control.

Several years since Mr. Bryce called attention to the seriousness of this matter. He said: "One may surmise that the equality of material conditions, almost universal in

¹ *Columbia University Lectures*, April, 1909.

² It is exceedingly interesting at this point to note the investigations of Professor Adams in Wisconsin on the distribution of property ownership in this typical western state. Of 1,138 estates counted, comparatively recently, in six counties, whose aggregate appraised value was \$10,154,385, with no estate worth less than \$500, it was found that 91% of the male decedents died owning property worth less than \$7,500; together this 91% owned 19.2% of the aggregate. The other 9% had estates worth more than \$7,500, these constituting 80.8% of the total. Thus this early even in a recent pioneer state may be observed the concentration of properties in a comparatively few hands. Cf. Adams and Sumner, *Labor Problems*, 1907, pp. 563-7.

the last century, still general sixty years ago, will more and more diminish by the growth of a very rich class at one end of the line, and of a very poor class at the other end.”¹ “Liberty” says Ritchie, “has, indeed, been too often taken in merely the negative sense of absence of state-action—a principle which would mean anarchy, and a state of return to savage life, but which, when applied to modern society established on the basis of existing economic and legal institutions, and under democratic government, means the unfettered industrial and commercial struggle for existence, leading to social and political preponderance of wealth. Democracy in this sense means plutocracy.”² The dangers of this in a period of expanding democratic ideals are obvious. As De Tocqueville observed:

Democratic ages are periods of experiment, innovation, and adventure. At such times there is always a multitude of men engaged in difficult or novel undertakings, which they follow alone, without caring for their fellowmen. Such persons may be ready to admit, as a general principle, that the public authority ought not to interfere in private concerns, but by an exception to that rule each of them craves its assistance in the particular concern on which he is engaged, and seeks to draw upon the influence of the government for his own benefit, though he would restrict it on all other occasions.³

This is a peculiarly apt statement of a policy on which land speculators, many lumber-men and timber-thieves, cattlemen, some railroad builders and other exploiters of the West, on private and public property, have proceeded. Much of the time government officials and the government itself have been influenced to further private ends.

¹ *Op. cit.*, vol. ii, p. 746.

² *Evolution and Democracy*, pp. 26-27.

³ *Op. cit.*, vol. ii, p. 362.

On this subject May's remark is of pertinence, that while the tendency at first is to favor liberty by overcoming narrow or restricted forms of government, later the tendency is for liberty to associate itself with the State, and thus become the strongest kind of a barrier against democracy.¹ In America we have had these processes at work and under peculiarly momentous circumstances. This suggestion of May's leads us to raise the question, with Mr. Dole, whether democracy, on the other hand, does not mean something higher than is yet commonly appreciated. Does it not aim to build up mutual interests through mutual help.² "Most people imagine" says Mr. Dole, "that it [the democratic movement] chiefly uses one of the centrifugal forces in human nature; that is, the desire of each to assert his liberty. That this is a legitimate part of the democratic motive no one can doubt. But the opposite, or centripetal, force in our nature, which works to socialize and unify men, is the deeper and far the more effective part of constructive democracy. The one force liberates men's minds from prejudices, but the other urges upon them the needful sense of a common aim." "

Our review of western development shows how far the nation is from the realization of this ideal. Yet undoubtedly certain resident forces have been developed throughout western growth which can greatly assist in securing this ideal when it is perceived.

Problems of liberty and democracy certainly involve public welfare. In a political democracy where the greatest amount of protection possible is guaranteed to the indi-

¹ *Op. cit.*, vol. i, Introduction, p. lviii.

² *The Spirit of Democracy*, p. 58.

³ *Ibid.*, p. 57; see also Sir James Fitz-James Stephen, *Liberty, Equality and Fraternity*.

vidual citizen for his personal freedom, and where control therefore is reduced to the lowest possible terms consistent with public or social interests, there is constant danger, with humanity as it is, and especially under such circumstances, as we have reviewed, of larger social interests suffering. This is particularly true of America, for, as has been indicated by this survey of western development, where there is dissipation or extension of power, there is often greater opportunity for subversion of it through individual activity. Agencies of control are slower to act than those over whom they are expected to act. Our modern cities show this. Though it may be true that the city is the "hope of democracy,"¹ still it also shows us how active society must be to protect itself.

Finally, reverting to a previous thought, it would seem that even the fundamental ideals of real democracy are yet to be attained; that in general they are not yet fully appreciated. Democracy means liberty, yet not liberty to the destruction of liberty, however this may occur. It means, therefore, that men must secure a higher conception of the ideal of liberty — that with it goes certain responsibility. This thought has not in general received full recognition. The consciousness of dependency, of mutual interest, of social solidarity on a wide or national scale in distinction from ideals of independence and personal or mere community interests alone, is a higher goal, it would seem, to which the processes, in justice, of social evolution must eventually carry us. The welfare of the individual is at stake not as an individual, but as a member of society as a whole. With Lowell, we may hope for that state of affairs in which every man has a fair chance and knows that he has it. This means that society must develop

¹ Cf. Howe, *The City the Hope of Democracy*.

the required machinery, the proper ideals and well-balanced policies to secure the operation of these higher ideals of democracy. It means social welfare besides individual welfare. He who would plot the curve of future American democracy, however, might well check his data from what has already occurred.

To sum up our conclusions in this study it is necessary, if only in a brief manner, to recall the circumstances under which the country and the people as a whole have experienced a period of rapid development. The country has sustained the pressure of tremendous dynamic progress industrially, politically and socially. A great social unrest has characterized a century of expansion. Progress in many forms, especially in the development of human liberty, has moved forward with gigantic strides. A continent, within three generations, a remarkably short period of time, has been over-run and conquered. A great domain—great in extent and wealth—has been appropriated. Splendid prizes have been held before men's eyes, rewards for personal initiative and vigor. The stimulus and opportunities for individual success have been alluring and seductive, and the response has been commensurate to the stimulus. Social institutions have been subjected to strain, stress and processes of modification and adaptation, and have thus been carried a long way on the road of social evolution. Democracy as an ideal has reached high developments. The principles of liberty and equality have each become firmly established in the social mind as desirable and necessary, though certainly, as we have attempted to show, their implications and complexities have not been fully perceived. Society in general has been too busy with matters of private concern to bother much about matters of wider social welfare, and it has been too preoccupied always to secure adequate expres-

sion of whatever will it has had. The resulting problems which the country faces and must solve, together with their causes and possible solution, may be generally, though not exhaustively, stated in a series of propositions.

1. Frontiers and frontier periods are places and times of great social instability where and when fundamental social adjustments take place. This has been so from earliest periods of which we have record. At such times the power of environment and the general conditions which obtain exert a powerful influence over the individual. Society becomes atomic; individual liberty is encouraged; social control is reduced to the lowest terms. It is during these periods, too, that, as a rule, great advances are made along the road of social progress. The mind is free to move at will and in a way to create new norms of conduct and to readjust the forms of social organization in the light of experience and commonsense. Such have been the conditions in America, and under such circumstances have those problems arisen which we have tried to point out. The American people are, therefore, through this heritage, in a position to take further long steps toward the goal of social progress.

2. Democracy, *per se*, does not mean or essentially insure ideals of human liberty unless with it are established forms of social control to insure substantial equality.¹ This is difficult to secure under the most favorable circumstances, but in conditions calling out strong individualism such as we have observed in western development, as for instance, in the exploitation of natural resources, the problem is increased in complexity. Under such circumstances, as we have shown, the individual has more or less successfully escaped from control, or rather control has been reduced to

¹ Cf. Giddings, *Inductive Sociology*, pp. 338-339.

the minimum, and conditions have been such as to make this avoidance of control comparatively easy. There is a certain rhythm in social progress whereby the individual escapes from popular control. Then the latter secures its ascendancy over the individual. This may require longer or shorter periods, but to insure the greatest welfare to the greatest number the rapidity with which a general social ascendancy may be reached is a most vital element. The question in the United States is how soon this popular social ascendancy will be attained, under what circumstances, and how far-reaching will be the results. A query is how far American individualism will block its way.

3. Since the final struggle for human liberty is to be chiefly fought out in the economic field, and this in reality will determine in last analysis the other forms of liberty, the distribution of the nation's Public Domain may be regarded with a degree of real solicitude. This may be felt especially upon noting the struggles to-day in Germany and England between land-owners and land-users. The fight there along lines of progressive land reform toward a recognition of social rights in private property is directly at variance with commonly accepted policies in the United States in the passing to patent and private ownership not only lands, properties and rights for private use, but large sections without due social remuneration whose use is destined more for public and quasi-public purposes. Land and natural resources have been cheap and very little attention has been given in their disposal to wide social interests.¹ If policies of the future looking toward various land reforms are democratic measures in line with democratic ideals, we may easily see how difficult such progress will be found in America because of our

¹ Cf. *infra*, chs. vii and viii.

commonly accepted policies in land distribution and the more thorough-going establishment of private ownership in property. It is distinctly an advanced step—if certain limitations of private ownership in property is an advanced step, which we believe is true—when it is proposed to withdraw mining rights from the realm of private property rights; to withhold water-power sites from purely private ownership or control; and to conserve the use, possibly on a leasing system, of national forests. Modern society should increasingly test the institution of private property in some relation to general social welfare.

4. All other things considered, the greater the social heterogeneity, the greater the need of control and coercion; the greater the development of individual liberty or individualism, also the greater the need of regulation. And, contrary to the belief of the "individualist," what this control shall be, must be determined by society at large and not by himself. This is fundamental to social welfare. If we, therefore, have had great difficulty in securing enough or proper forms of control in the United States we may find much food for thought in a study of the ideas, ideals, stimulus and economic opportunity coincident to American development. This control becomes exceedingly difficult with the rapid increase in the number of complex corporate bodies inspired by individualist policies but possessing no personality; bodies aiming most effectively at the same objects which during our internal history have most generally been sought by private individuals. Much of the pernicious "grabbing" of remaining portions of the Public Domain is now attempted by large companies and corporations. Powerful and influential, they have been able to make most serious inroads on what is nothing less than public property; and organizations in which personal responsibility is difficult to locate, and especially so under our

laws and court decisions, they have been able with greater ease to escape control. The individualist makes a mistake when he believes himself superior to or above social regulation, however well he may prove that social advance itself is largely dependent upon the extent to which the individual is assured of his liberty and freedom. The same is true with corporate bodies. They should live under no special dispensation. But this liberty and freedom should never profess to eliminate control in the interests of all. The individual enjoys only as much liberty as the social mind permits. This is not to deny the great service of the individual or private interests in national development, but quite on the contrary, it is to assert that there is the gravest danger of this service in the long run being exceeded by the dangers it itself produces. We need only mention forest depredation, over-speculation in lands and the resulting financial crises, wasteful mining methods, frauds, *et cetera*. Our forefathers placed great reliance on the ideals of individual liberty in their political philosophy, and we have endeavored more or less to perpetuate these desirable ideals. But at the same time it may be said that we have in part neglected to see the obverse side of the matter—adequate control. Hence to-day we are in the midst of a struggle to secure this, and curiously enough the fight is waged the most vigorously in those very sections where the ideals of liberty and of individualism have secured the greatest encouragement and expression—in the West.

5. In as much as a reasonable assurance of equality is necessary to the establishment of complete liberty and of thoroughgoing progress we must admit the importance of the ideal of equality in the West. For the very reason that there the ideals of liberty have been the most completely established, an impossibility or even a suggestion of the impossibility of realizing these ideals

immediately finds an aroused public. Herein lies much hope for the future, though how much western individualism will interfere is a vital question. Here is where the processes for a democratic social consciousness have operated vigorously. Demands for progressive regulative legislation; assertions of the rights of "the people;" opposition to exploitation; demands for conservation of natural resources for social benefit; a progressive contest against vested rights, *et cetera*, now come from the West. Congressional politicians take straw ballots of western newspaper editors, and eastern periodicals seek the opinions of western executives and legislatures on matters relating to progressive regulative policies of all kinds. Are not these things marks of the latent power and latent tendencies which a frontier and a period of development on a personal-liberty basis have produced and made possible?

Throughout western development there has been an employment of the same general arguments for the preservation of individual liberty as those advocated in opposition to English and American factory legislation or regulation of terms and conditions of employment. In this, individual employers have insisted on much liberty and on the principle of *laissez-faire*, purely from the personal-liberty point of view. This has been a middle or an upper-class philosophy, but most dangerous to the so-called lower classes and to social welfare in general. When questions of large social interest are concerned, the principles of individual personal liberty must be modified with keen social interpretations. Just as factory legislation has proved the advantages of regulation or limitation of liberty, so will the same be true in other fields. Both De Tocqueville and Bryce have pointed out the problems of individualism in America. Long since they perceived the probable growth

of classes, of class control, of miscarriages of the social democratic ideal. Our history has but proved and emphasized what they at different periods have insisted upon. Neither subjectively nor objectively are men on an equality. Differences are the natural developments of natural inequalities and they produce social problems as long as there is a society. The only defensible effort, therefore, is that of endeavoring to secure as much as possible the liberty of all against the liberty of the few when it is found that the latter cuts under those ideals of liberty which social progress, with the proper use of that term, should itself insure. For, as Dr. Ward says: "While individual initiative can alone accomplish great results, it *must be free*, and . . . under the influence of the normal and natural forces of society, and taking the whole human nature into the account, it cannot be free unless the avenues for its activity be kept open by the power of society at large."¹

Essential ways of securing these desirable ends is through an informed body politic, a body not only appreciative of the actual conditions it faces, but also cognizant of means to secure its social will, and able to do so by law and social opinion. At the same time, as we have endeavored to indicate, circumstances may often be such as to make the realization of these ideals most difficult. To-day the country is facing critical problems in its further development. They are no more critical, however, than in the past, but perhaps are more appreciated. What will be its policy on the exploitation of remaining portions of the Public Domain? What will be the policies adopted and actually observed respecting water power and water-power sites, forests, mining lands, new

¹ *Pure Sociology*, (1907), p. 568. For a general discussion of this problem by Simmel, Gumpłowicz, Ratzenhofer, De Greef, Comte and Mr. Spencer, cf. *ibid.*, pp. 549-555.

swamp areas to be opened, and various forms of natural resources? How far will past experience guide us? To what extent have we fallen heir to the essential principles of democracy or how far will the individualistic philosophy mold policies, public opinion and legislation? These are fundamental problems of social solidarity and general social welfare.

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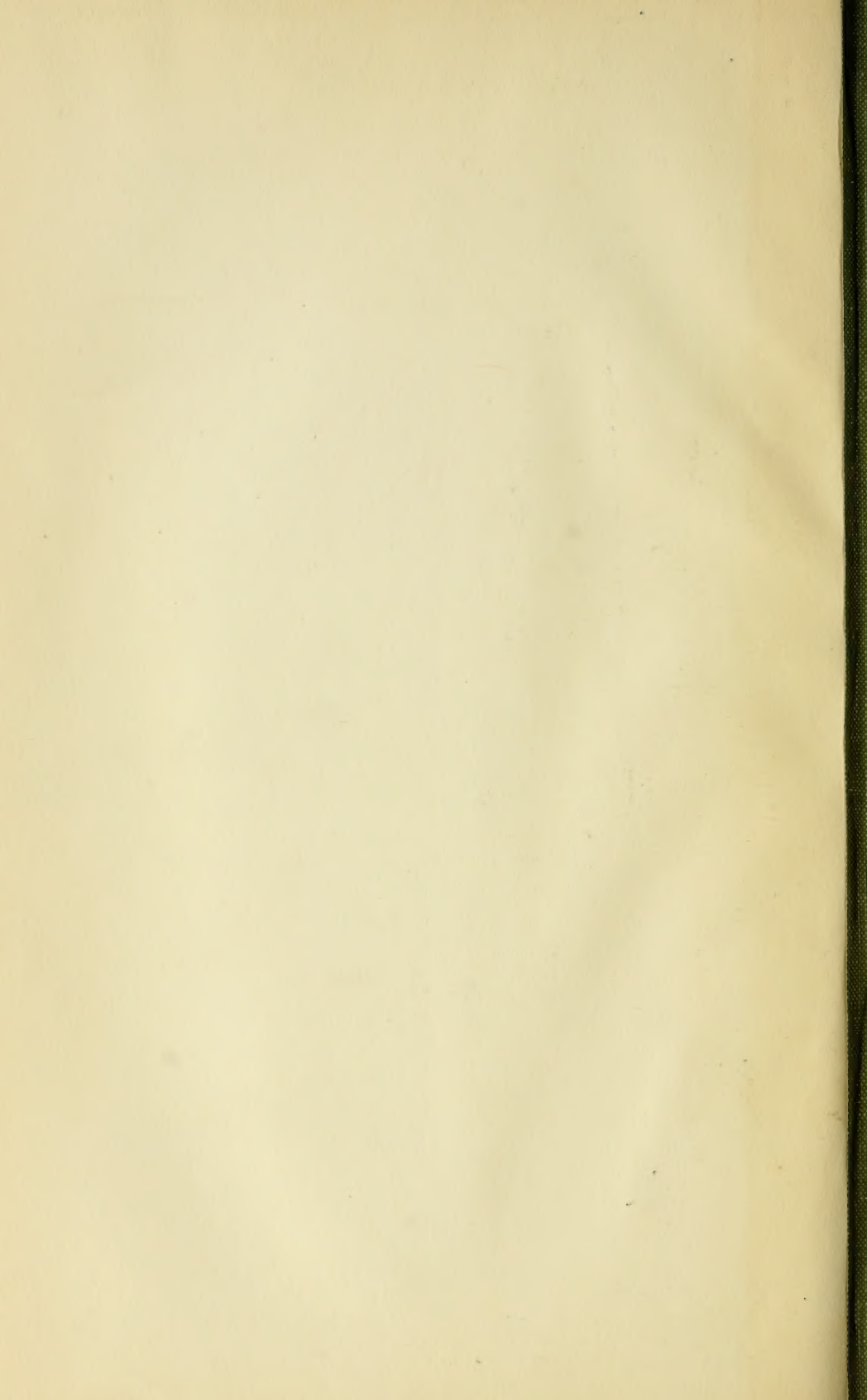
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